



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**ADOPTION CAUSE NO. 5 OF 2019**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF THE ADOPTION OF BABY P.F**

**BY**

**PGW and KNN**

**RULING**

1. The adoption order was sought vide two applications. The first application is brought by way of chamber Summons dated 15<sup>th</sup> March, 2019. The Applicants **PGW and KNN** seek the following orders:

1. **THAT** AWN be appointed Guardian ad Litem of BABY F a child.
2. **THAT** the Director of Children's Services, Ministry of Labour and Social Services investigate the applicants' fitness to adopt and file a report.

2. The Second application is brought by way of originating summons that was brought under Sections 154, 156, 157, 158, 160, 163, 164 and 170 of the Children Act No. 8 of 2001 and Section 24 of the Interpretation and General Provisions Act Cap 2 of the Laws of Kenya. It is dated 15<sup>th</sup> March, 2019 and the applicants sought for the following orders;

1. **THAT** the child be considered a Kenyan Citizen
2. **THAT** the applicants PGW and KNN be authorized to adopt the child to be known as FW
3. **THAT** AWG be appointed Legal Guardian of the child
4. **THAT** the registrar of births do issue a new birth certificate with the names of the child as FW.
5. **THAT** the child be deemed to have been born on the 28<sup>th</sup> November, 2015.
6. **THAT** the Director General do make an entry of this adoption in the Adopted children Register.

3. In the preliminary stage, the first application was allowed by the court.

4. According to the applicant's statement filed in court, the applicants are married to each other under the African Christian Marriage and Divorce Act and are Kenyan citizens as per the identity cards annexed to the application. They are both working as teacher trainers at [Particulars Withheld] Technical Training Institute and run business respectively and have no children of their own. According to the applicants' statement dated 15<sup>th</sup> March, 2019, they appointed AWG to be legal guardian of the minor. The applicants state that they had never been convicted of a criminal offence and attached police clearance certificates. They stated that they received the child into their care and possession and lived with him for more than 3 months. On record is an affidavit in support of the application and it is dated 15<sup>th</sup> March, 2019. There is also an affidavit of consent to act as legal guardian of the minor and which is deponed by AWG on 15<sup>th</sup> March, 2019.

5. Vide a report filed on 18<sup>th</sup> June, 2019 by Buckner Kenya, the minor named PF was rescued by a good samaritan called Juvole Ochieng

who indicated that he found the baby under a tree at [Particulars Withheld] road and that the matter was reported to Kayole Police Station vide OB 9/28/11/2015 and Kayole Police Station referred the baby to Imani Children Home for care and protection the same day. The report stated that on 28<sup>th</sup> November, 2015 the baby was admitted at Imani Children Home for care and protection and he was named the same day. The report indicated that on 3<sup>rd</sup> May, 2017 the child was committed to the care of Imani Children Home through the Children Court at Nairobi vide Care and Protection No. 180 of 2017 and stayed in the home till 19<sup>th</sup> November, 2017 when he was placed under the care of the applicants having remained unclaimed for 6 months. Buckner Kenya declared him free for adoption on 14<sup>th</sup> July, 2017.

6. Nathan M. Kyule is the Children Officer, Matungulu Sub-County. He conducted a social inquiry on the Applicants and the source of his information is unclear. It was observed that the applicants have no child of their own and seek to adopt the minor. The minor seemed to have bonded well with the applicants and he opined that the applicants are well suited for adoption.

7. The Children's Officer, Matungulu Sub-County filed a favourable report dated 19.8.2019 as to the suitability of the Applicants to adopt the minor. He appeared before me on 24.10.2019 to have the report dated 19.8.2019 confirming the suitability of the applicants to be adopted in the instant proceedings.

8. On 24.9.2019, Mary Kamiri appeared before me to recommend the applicants' application and to confirm the suitability of the applicants to adopt the minor as well as adopt the report dated 30.5.2019. AWG appeared before me on 24.9.2019 and 24.10.2019 to confirm and rely on the contents of her affidavits and willingness to take up her duties as legal guardian as well as recommend the applicants to adopt the minor. She appeared to be fully aware of the duties imposed on her as regards the baby and further is aware that the role is irrevocable. The applicants also appeared before me on 24.9.2019 and relied on their affidavits to support the application and indicated willingness to adopt and cater for the needs of the minor whom they have bonded well.

9. This court is satisfied that the Applicants are suitable persons to adopt the minor and that they are financially stable and have the means to provide and care for her. I also find that it is in the best interest of the child to allow the application.

For the above reasons, the court orders as follows;

1. **THAT the Applicants be and are hereby authorized to adopt BABY PF a child and who is to be known as FW.**
2. **THAT AWG be and is hereby appointed Legal Guardian of the minor.**
3. **THAT the Registrar-General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**
4. **THAT the guardian ad litem is hereby discharged.**

It is so ordered.

Dated and delivered at **Machakos** this **14<sup>th</sup>** day of **November, 2019**.

**D. K. Kemei**

**Judge**