



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

ADOPTION CAUSE NO. 3 OF 2019

IN THE MATTER OF THE CHILDRENS ACT NO. 8 OF 2001

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION OF BABY

RS

MME.....1ST APPLICANT

EWM.....2ND APPLICANT

JUDGMENT

1. By Originating Summons dated 7th November 2018, the applicants **MME** and **EWM both** of P. O. Box [xxxx], Nairobi have sought the authority of this court to adopt Baby **RS**; that the child be renamed **INM** and that the child be presumed to be a Kenyan citizen by birth. The applicants further seek an order directing the Registrar General to make appropriate entries in the Adoption Children Register and issue a certificate to that effect.
2. The grounds upon which the application is made are that the proposed adoption is in the best interest of the child and that the applicants have been approved as prospective parents by competent authorities under the Department of Children Service.
 1. There is a statement the applicants in support of the application for adoption. The applicants are citizens of Kenya. They state that they made an application and were placed by KKPI Adoption Society after they provided relevant documents for that purpose and investigations done. The 1st applicant is 33 years while the 2nd applicant is 25 years old. They were born on 11th November 1995 and 12th September 1993 respectively and are residents within Kajiado County.
 2. The couple got married on 14th September 2014 under customary law but later solemnized their marriage in church in 2016. They are Accountants by profession, and whereas the 1st applicant is still on employment, the 2nd applicant states that she stopped working to stay with the child after being placed in their custody. They state that their families and friends have also approved the proposed adoption and have encouraged them to go ahead with it.
 3. According to the applicants, the child was born on 14th November 2017 to MWW ID/No. [xxxx], at Ponya Medical Centre, Ruiru. The child's mother approached the Adoption Society and gave the child up for adoption on grounds of inability to take care of the child. After inquiry and other processes, the Adoption Society placed the child for adoption. Committal orders for protection of the child were given in Protection and Care Case No. [xxxx] by the Children's Court Nairobi and the child committed to Happy Life Children's Home. There after they were connected with the child leading to this application.
 4. I have considered the application and submissions by counsel for the applicants. I have also perused various documents in support of this application. The applicants are citizens of Kenya and are a couple. They are adults above 25 years and below 65 years. They have expressed the desire to adopt the child and have been with the child since the child was placed in their custody. They got the child through a registered adoption society after the child had been given up for adoption by the biological mother. The man responsible and the biological father is said to have disappeared after the child was conceived.
 5. I have seen letter dated 16th January 2018 from the Children's Officer Kasarani to the effect that the child was given up for adoption by the biological mother. There is also on record a Protective Order issued on 19th February 2018 in Protection and Care Case No. [xxxx], committing the child to Happy Life Children's Home.
 6. I have also read the report from Department of Children Services, Kajiado County dated 2nd May 2019. The report notes that the reason why the child was placed for adoption was for provision of a stable, loving and caring environment. The report confirms that the applicants have a stable family and income and are therefore able to cater for the welfare of the child. The report further notes that the child has

assimilated well with the applicants; that there is family support and that since the child was given up for adoption by the biological mother, nobody, including the biological father, whose whereabouts are unknown, has come out to claim the child. It recommends adoption.

7. The guardian ad litem has also filed a report dated 14th May 2014 which confirms that from her investigation and inquiry, the applicants have been discharging their parental responsibilities to the child properly.

8. This application therefore concerns adoption of a child who has been given up for adoption by the biological mother. The applicants meet the legal requirements for adoption and all reports have recommended adoption for the benefit and wellbeing of the child. The Constitution and the law state that in all matters concerning a child, the interests of the child are paramount. During the hearing I observed the child and appeared comfortable with the applicants.

9. I have perused all the documents, affidavits as well as reports. I am satisfied that it is in the interest of the child that this application has been made. The legal guardians have also confirmed that they are willing to step in the event the applicants are deceased or unable to discharge their parental responsibility to the child.

10. I am satisfied that the applicants are fit and proper persons to adopt the child the subject of this application under the Children Act. Consequently, the application for adoption dated 7th November 2018 is allowed. I hereby make the following orders;

- a) That an order is hereby made authorizing the applicants MME and EWM jointly to adopt BABY RS.***
- b) That the child be renamed INM.***
- c) That EAO and HKL are hereby appointed the legal guardians of the child in the event that the applicants die, or are incapacitated by ill-health.***
- d) That the guardian ad litem, GWK be and is hereby discharged.***
- e) c) That the Registrar General be and is hereby directed to make appropriate entries of this adoption into the Register of Adoptions and issue a certificate to that effect.***
- f) Orders accordingly***

Dated, Signed and Delivered in open court at Kajiado this 8th day of November, 2019.

E C MWITA

JUDGE