



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 7 OF 2019**

**IN THE MATTER OF BABY N**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

**BOO & LAO APPLICANTS**

**RULING**

1. The Applicants herein **BOO** and **LAO** filed an amended originating summons dated 18/10/2019 seeking the following prayers:

- (a) That GVC be appointed as a guardian Ad Litem of the minor.*
- (b) That the Director Children Services do investigate and file a report on the suitability of the applicants to adopt Baby N.*
- (c) That the Applicants be and are authorized to adopt the child currently identified and known as Baby N.*
- (d) That the child be renamed ASCO.*
- (e) That the child be presumed to be a Kenyan citizen and be entitled to the rights and benefits of a Kenyan citizen including being issued with a Kenyan passport whenever desired.*
- (f) That the Registrar General be directed to make the appropriate entries in the Adopted Children Register and do issue a certificate to that effect.*
- (g) That EOO be appointed as legal guardian of the child.*
- (h) That this court do issue such further orders as are in the interest of justice.*

2. The Application is supported by the affidavit jointly sworn by the Applicants on even date and which stated *inter alia*: that the 1<sup>st</sup> applicant is a pastor at Deliverance Healing and Intercessory Ministry while the 2<sup>nd</sup> Applicant is a business lady in Nairobi and that both have adequate income to enable them assume parental responsibilities over the child's medical care, education and general upkeep; that they do not have any past criminal record as evidenced by a police clearance certificate dated 5/11/2017; that the child was born on 23/12/2017 in Makadara – Nairobi County to CML as per the acknowledgement of birth notification number xxxxx; that the said child's biological mother voluntarily gave up the child for adoption owing to the circumstances of how she had conceived the child (an unfortunate rape ordeal) as evidenced by her undated letter to the Kenya Children's Homes, her identify card number xxxxx; that the child was at Thomas Bernanos House at the age of 57 days vide certificate of acknowledgement and consent for parent/guardian offering a child for adoption dated 20/2/2018 respectively; that the child was committed to the Home by the Nairobi children's Court on 6/6/2018 for a period of three (3) years vide **Protection and Care Case No.181 of 2018**; that the biological mother of the child signed an affidavit of consent to the adoption of a child who was declared free for adoption dated 18/07/2018 vide serial number xxxx; that they have no adverse interest to those of the child.

3. The proposed Guardian Ad litem GVC appeared in court and confirmed that she had known the applicants for a period of three (3) years and that the child was placed with them on 26/07/2018. She averred that she knows the duties of a Guardian Ad Litem namely to see to it that the child is taken care of and to monitor the conduct of the applicants and to report to court appropriately. She duly signed a consent to act as Guardian Ad Litem and undertook to file a report on the suitability of the Applicants to adopt the baby. Simultaneously with the appointment of the Guardian Ad Litem this court directed the Director of Children Services to investigate the Applicants fitness to adopt the child and to file a report in that regard.

4. Pauline Kitema from the Kenya Children Adoption Society appeared before me and confirmed that the child was placed with the Applicants on 26/07/2018. She added that the Society recommends the adoption application since in their report dated 30/08/2019 and filed on 9/10/2019 the applicants meet the requisite conditions to adopt the minor.

5. EOO who is a first cousin to the 1<sup>st</sup> Applicant agreed to come on board as a Legal Guardian of the minor. He averred that he is well conversant with the role of legal guardian and that he is ready to be a substitute parent to the child. He confirmed that he is aware that the role of legal guardian is irrevocable.

6. Emily Kimanzi is the Machakos Sub-County children officer. She filed her report dated 16/08/2019. She confirmed having visited the Applicants at their [particulars withheld] Estate in Embakasi where she noted that they live in a three bedroomed rental house which is fully furnished and conducive to the baby. According to her, the Applicants are financially stable and capable to provide for the child. She also added that the applicants had earlier adopted a male child now aged 6 years old and is of the view that they are legible to adopt the present child who has bonded very well with them. She recommended the adoption.

7. GVC the Guardian Ad Litem filed a comprehensive report dated 18/10/2019 in which she revealed that the baby has bonded well with the Applicants. She also confirmed that the environment is good for the baby's growth and development.

8. I have considered the Applicants originating summons as well as the attendant documents and the several reports plus the evidence adduced. I find the Applicants suitable to adopt the baby named N. The baby having been given up for adoption by her biological mother as a result of unavoidable circumstances she will have a second chance in life with the applicants who have whole heartedly accepted her as their child. It is in the best interest of the minor to allow the adoption application. Consequently the application is meritorious and is allowed in the following terms:

*(a) That the Applicants BOO and LAO be and are hereby authorized to adopt the child currently known as Baby N.*

*(b) That the child be renamed ASCO.*

*(c) That EOO be the legal Guardian of the minor.*

*(d) That the Registrar General is directed to make the appropriate entries in the adopted Children Register and do issue a certificate to that effect.*

*(e) That the Guardian Ad Litem is hereby discharged.*

It is so ordered.

**Dated and delivered at Machakos this 9<sup>th</sup> day of December, 2019.**

**D. K. Kemei**

**Judge**