



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 94 OF 2016

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF ADOPTION OF CHILD F.D.

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

GMM.....1ST APPLICANT

LK.....2ND APPLICANT

JUDGMENT

1. The applicants are a Kenyan couple aged 46 and 42 years, respectively. The first applicant is a welder at [particulars withheld] Construction Company while the second applicant is a domestic worker. They are married but have not been blessed with children. They filed the originating summons on 13th July 2016 seeking to be allowed to adopt a male child who is estimated to have been born on 1st November 2011.

2. Child F.D. was on 15th November 2011 found abandoned at [particulars withheld] II estate. He was rescued and the matter reported to Buruburu Police Station vide O.B No. [particulars withheld]. The child was taken to Imani Children's Home for care and protection on the same day. The child was formally committed to the care of Imani Children's Home on 2nd July 2012 by the Children's Court in Nairobi vide Protection and Care Cause No.203 of 2012. The child has not been claimed by anyone, and police investigations to reveal her parents and/or relatives have not borne any fruit. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Kenyans to Kenyans Peace Initiative (KKPI) Adoption Society on 27th February 2013 and was placed under the care of the applicants for mandatory bonding prior to adoption. He has been under the continuous care of the applicants since 6th May 2015.

3. The court on 7th March 2017 appointed KKL as guardian *ad litem* and ordered that he files a report after carrying out a social inquiry on the applicants. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants have bonded well.

4. The court finds that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was borne of them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as the child was found abandoned.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a. the applicants GMM and LK are hereby allowed to adopt Child F.D.;

b. child F.D. shall henceforth be known as FMM;

c. the child's date of birth shall be 1st November 2011, and shall be presumed Kenyan by birth having been found abandoned at [particulars withheld] II estate in Kenya;

d. JCK is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;

e. the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f. the guardian *ad litem* is hereby discharged.

DATED and SIGNED at NAIROBI this 9TH day of MAY 2018

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 10TH day of MAY 2018

W. MUSYOKA

JUDGE