



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 171 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY G.M Alias S.N MINOR

BY

K D K 1ST APPLICANT

AND

L N N 2ND APPLICANT

JUDGMENT

The Applicants, P N G and N W K sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby G.M Alias S.N R.C. (hereinafter the child) whose name they want changed to A W K. The Applicants are husband and wife. They are 35 and 36 years old respectively. They celebrated their marriage on 13th March 2010 as per the marriage certificate attached as "KDK-6". The 1st applicant is a [particulars withheld] while the 2nd applicant is a [particulars withheld] They have not been blessed with children of their own thus they wish to adopt the child.

The child in this matter is presumed to have been born on 24th November 2016. According to the initial police letter from Narumoru Police Station dated 3rd July, 2017 OB No. 12/3/1/2017, the child was taken to the station by one Esther Wahome in company of area chief. Esther Wahome reported that the mother of the child, M N, who was her neighbour, left her with the child on 3rd January, 2017 at about 1500hrs. The matter was then referred to the Children's Office and the child placed at Neema House Infant Rescue Centre for temporary care and protection. The child was formally committed to Neema House Infant Rescue Centre on 13th April, 2017 for care and protection in accordance with **Section 119** of the **Children Act 2001** vide **Karatina Protection and Care case number 1/2017**.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 23rd July, 2017. She has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Narumoru Police Station, no one has come forward to claim the child. Change Trust Adoption Society issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is serial no. 00226 and the same is dated 22nd August, 2017.

In an application filed on 24th November, 2017 the Applicants sought orders that H N K be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report. On 16th February, 2018 this Court issued an order appointing H N K as the child's guardian *ad litem*, and further directing that she and the Director of Children's Services file their respective reports in Court. Serial No. XXX Certificate to free the child for Adoption issued on 22nd August, 2017.

Before this matter came up for hearing, Change Trust Adoption Society on 15th February, 2018 filed a report which favoured the proposed adoption of the child by the Applicants. On 2nd May, 2018, the guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services and filed on 3rd April, 2018. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicants to adopt the child.

This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to **Section 159(1) (a) of the Children Act, 2001** since the child was abandoned. This Court is satisfied that the Applicants are qualified and able to take care of the child. The home visit by the guardian *ad litem* and the Department of Children's Services confirms that the Applicants are indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. They both have no criminal records and are of good health. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child considers the Applicants her parents.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicants' application. The Applicants, P N G and N W K, are hereby allowed to adopt Baby G.M Alias S.N. Henceforth, the child shall be known as A W K. Her date of birth shall be 24th November 2016. Her place of birth shall be Nyeri County. She is presumed to be a citizen of Kenya by birth. J N N is hereby appointed as the legal guardian of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 24TH DAY OF SEPTEMBER 2018.

M. W. MUIGAI

JUDGE- FAMILY DIVISION HIGH COURT

IN THE PRESENCE OF;

MS KIGUATHA FOR THE APPLICANTS