



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 44 OF 2017

IN THE MATTER OF BABY IH a.k.a

A K K.....INFANT

AND

G K K.....1ST APPLICANT

M W W.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated the 14th November, 2017. The Applicants **GKK** and through their advocate Karen Wanderi & Company Advocates seek the following orders:

1. Spent
2. Spent
3. Spent
4. Spent
5. **THAT LYDIA WANGUI WAITUTU of Post Office Box Number 182, MUIGA in the Republic of Kenya be appointed Legal Guardian of the minor.**
6. **THAT the Applicants be authorized to adopt BABY INNOCENT HOPE to be known as ALVIN KIGURU KIMITI.**
7. **THAT it is directed that the Registrar General shall make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**
8. **THAT the Registrar of Births and Deaths be and is hereby directed to issue the child with a certificate of birth in the name of ALVIN KIGURU KIMITI.**

The Applicants **GKK** and **MWW** are husband and wife. They got married on 11th April, 2012 under Kikuyu Customary Law and later solemnized their marriage at the Registrar's Office Nakuru on 21st January, 2015 under the Marriage Act, 2014 and were issued with a Marriage Certificate No.[Particulars Withheld]. **GKK** and **MWW** are in gainful employment. **GKK** is a Lecturer at [Particulars Withheld] University of Agriculture and Technology while **MWW** is a teacher employed by the Teachers Service Commission. The Applicants reside in [Particulars Withheld] within Nakuru County.

The applicants have no biological child of their own due to the medical complications of the 2nd Applicant. The applicants desire to adopt baby **IH a.k.a. AKK**, a male child, so that they can have a child of their own, have someone to take care of them when they are old, have someone who will inherit their properties and also they wish to give a needy child a good livelihood while they trust and hope that one day they will be blessed with one of their own to add to their family members.

Baby **IH a.k.a. AKK** was presumably born on 15th April, 2015 at the Provincial General Hospital in Kakamega vide Birth Certificate serial

number 4155279. She was found abandoned on the same day at Irumbi area in Kakamega and was rescued by a good samaritan named Harrieta Betty of mobile [Particulars Withheld] who took him to the police station. The matter was recorded at Kakamega Police Station vide Occurrence Book Number 11/15/4/2015. The police vide a letter dated 15th April, 2015 requested the Sub-County Children's Office Kakamega to take the minor in their custody. The minor through the children office was handed over to the custody of Springs of Life Children's Home. On 14th May, 2015 baby **IH a.k.a. AKK** was officially committed to the same institution vide the Kakamega Children's Court Protection and Care Case Number Juv. 285/2015. The home ensured that the child received all the immunizations as per the Kenya Expanded Programme on immunization guidelines. Baby **IH a.k.a. AKK** was transferred from Springs of Life to Thomas Barnado House on 2nd November 2015 through the Kakamega Central Sub County Children Office. The medical information available indicates that the child's growth and development is normal and his HIV status is negative.

The Applicants approached the Kenya Children's Home Adoption Society on 28th August, 2014 with an intention of adopting a male child. They were taken through the adoption process and its implications. They signed the Explanatory Memorandum for Adopters having understood its contents fully. The society's personnel conducted a home study at the applicants' residence in [Particulars Withheld] on 30th September, 2016. They were thereafter approved to be suitable potential adoptive parents by the society's case committee sitting on 9th November, 2016. They were placed with the minor on 21st November, 2016. Prior to placement the minor baby **IH a.k.a. AKK** had been declared free for adoption by the agency's case committee sitting of 5th October, 2016 via a freeing certificate serial number 1287.

By a letter dated 22nd October 2015, the OCS Kakamega Police Station asserted that from the time the child was abandoned, no one has gone to claim the minor.

On the 28th May, 2018, the Court ordered the Department of Children's Services, Ministry of Labour and Social Protection, Nakuru County to conduct investigations as to the suitability of the applicants to adopt baby **IH a.k.a. AKK**. One **SWK** of Post Office Box Number [Particulars Withheld] was also appointed as Guardian *Ad Litem* of baby **IH a.k.a. AKK**. The consent of the biological parents was dispensed with and the minor was declared a Kenyan citizen by presumption.

On 11th June, 2018, Beatrice Mandieka, a personnel from the children's services conducted an initial interview on the applicants and later on 26th July, 2018 visited them at their home where they were interrogated on their suitability to adopt baby **IH a.k.a. AKK**. Mr. Mwambi Mongare, the County Children's Coordinator, Nakuru filed a report in Court dated 3rd September, 2018.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this court is satisfied that the applicants are suitable persons to adopt Baby **IH a.k.a. AKK**.

For the above reasons, the Court hereby order as follows:

1. **THAT** **LWW** of Post Office Box Number [Particulars Withheld] in the Republic of Kenya be and is hereby appointed Legal Guardian of the minor.
2. **THAT** the Applicants be and are hereby authorized to adopt **BABY IH** to be known as **AKK**.
3. **THAT** the Registrar General is hereby directed to 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 Registrar of Births and Deaths be and is hereby directed to issue the child with a certificate of birth in the name of **AKK**.

Dated and Delivered at Nakuru this 11th day of October, 2018.

A. K. NDUNG'U

JUDGE