



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KITUI
ADOPTION CAUSE NO. 7 OF 2016
IN THE MATTER OF BABY EK
ON APPLICATION FOR AN ADOPTION ORDER

AND

NMM

PNN.....APPLICANTS

J U D G M E N T

1. The Applicants, **NMM** and **PNN**, approached this Court by way of Originating Summons seeking to adopt **Baby EK** who upon such orders being granted should be known as **EMN**. And further, that **SN** be appointed as the Legal Guardian of the child.
2. The prospective adoptive parents are teachers by profession and married under the Kamba Customary Marriage. The 1st Applicant had a previous marriage where they were blessed with three biological children who are all adults. He married the 2nd Applicant after the demise of his spouse. Their union was subsequently solemnized under the Christian Marriage Act and they believe in the sanctity of marriage. The family have the financial ability to raise another child as both of them have an estimated monthly net income of **Kshs. 65,000/=**, twenty (20) hectares of land, some domestic animals and a commercial plot at [**Particulars Withheld**] Market.
3. The subject child was abandoned at **Athiriver, Machakos**. He was rescued by a good Samaritan who took him to Machakos Police Station. He was taken to a charitable institution, **Springs of Hope Children's Centre, Open Hands Children Home** where he was admitted following an order by the Machakos Children Court.
4. The subject child was declared free for adoption on the **11th** day of **February, 2015** per the Certificate Serial No.[...]. Consequently he was placed with the Applicants who have continued to provide for his basic requirements and taken him to school.
5. The Kenya Children Homes, an adoption society has filed a report recommending issuance of adoption orders in respect of the child. Following a Court order the Children Officer carried out a social inquiry and filed a report herein. It was the officer's recommendation that the Applicants have proved the ability of adequately providing for the child. This Court did examine the proposed Legal Guardian who is the 1st Applicant's biological son. He has consented to take up the role.
6. Having considered the case, I do find that what is paramount is the best interest of the child. He was abandoned and efforts to trace his biological mother were fruitless therefore her consent is not necessary and is waived. I had the opportunity of observing the child who has bonded with the prospective adoptive parents. It will be in his interest for adoption orders to issue.
7. Consequently, I grant orders as follows:
 - (i) The Applicants be and are hereby authorized to adopt **Baby EK** who shall henceforth be known as **EMN**.
 - (ii) **SN** is appointed as the Legal Guardian of the child.
 - (iii) The Registrar General shall enter the order in the Adoption Register.
 - (iv) The Guardian ad litem is discharged.
8. It is so ordered.

Dated, Signed and Delivered at Kitui this 19th day of November, 2018.

L. N. MUTENDE

JUDGE