



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 182 OF 2017

IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001

AND

IN THE MATTER OF APPLICATION FOR ADOPTION OF BABY D alias A J

P M M..... 1ST APPLICANT

VERSUS

E W K M.....2ND APPLICANT

JUDGMENT

1. The applicants in this case P M M and E W K M (hereafter referred to as the 1st and 2nd Applicants) filed this ORIGINATING SUMMONS dated 13th December, 2017 seeking the following orders:

- (i) THAT the applicants P M M and E W K M, be authorized to adopt the child currently identified and known as BABY A J.**
- (ii) THAT the child be renamed G A K M.**
- (iii) THAT the Child be presumed to be a Kenyan Citizen and as a consequence, be entitled to the rights and benefits of a Kenyan Citizen, including being issued with a Kenyan Passport whenever desired.**
- (iv) THAT the Registrar General makes the appropriate entries in the Adopted Children Register.**
- (v) THAT this Court do issue such further orders as are in the interest of justice.**

2. The 1st and 2nd Applicants are a married couple who formalized their marriage on 1st November, 2014 at Nairobi in a Civil Wedding after they had lived together for one year. They have one biological child born on 20th August 2017 called C M.

3. The 1st Applicant was born on 27th April 1978 and he is a lawyer by profession currently working with [particulars withheld].

4. The 2nd Applicant is also a lawyer working with [particulars withheld]. She was born on 21st January 1983.

5. The 1st and 2nd Applicants have approached this Court seeking to adopt Baby D a.k.a. A J (hereafter referred to as the Child).

6. The Child was born on 26th October 2016 at Tigoni level 4 Hospital and abandoned by her biological mother M D at 4pm on 26th October 2016 after she absconded from the ward.

7. The matter was reported to Tigoni Police Station under OB No. [Particulars withheld] and the Children's Office wrote to the Medical Superintendent at Tigoni Hospital to release the Child to Nest Home for shelter, care and protection.

8. The matter was investigated and the biological mother of the Child could not be traced. The Police Department confirmed having exhausted their investigations on the matter.

9. The Case Committee of Little Angels Network deliberated on the matter in a meeting on 5th May 2017 and declared the Child free for adoption and issued a certificate No. [Particulars withheld] pursuant to Section 156 (1) of the Children Act 2001.

10. The following documents were filed in respect of the Child:

- (i) A Certificate declaring the Child free for adoption No. [particulars withheld]
- (ii) Letter from Police dated 29th October 2016
- (iii) Letter from Children's Department to Tigoni Hospital dated 18.11.2016
- (iv) Letter from Tigoni Hospital to Children's Department dated 22.11.2016
- (v) Letter of release of the Child from Tigoni Hospital dated 22.11.2016
- (vi) Admission form to the Nest Home dated 22.11.2016
- (vii) Court Committal dated 19th January 2017
- (viii) Final Police Letter dated 3.6.2017
- (ix) Birth Certificate for the Child
- (x) Pre-placement Report dated 22.11.2016

11. The guardian ad litem wrote a report in which she has given details about the 1st and 2nd Applicant's home environment and Motivation for adopting the Child. The report also shows that the child has bonded well with the 1st and 2nd Applicant's biological son, C M. The applicants have a noble reason for seeking to adopt the child - a desire to help a homeless child.

12. The Director of Children's Services investigated the matter and gave a report dated 6.6.2018 which is also favourable.

13. Little Angels Network gave a detailed report dated 16th December 2016 which also recommends that the Applicants be allowed to adopt the child.

14. I have considered the Application filed herein together with the Supporting Affidavit and all the reports and documents filed herein in support of the Application. My findings are as follows:

- (i) I find that the biological mother of the child could not be found to give consent as she abandoned the child at birth at Tigoni Hospital.**
- (ii) I also find that the Applicants are financially and emotionally capable of taking good care of the Child and it is in the best interest of the Child that she be adopted by the Applicants.**
- (iii) I order that the Applicants be and are hereby allowed to adopt the child and to name her G A K M.**
- (iv) THAT the Child be presumed to be a Kenyan Citizen and as a consequence be entitled to all the rights and benefits of a Kenyan Citizen including being issued with a Kenyan passport whenever desired.**
- (v) The Registrar general is directed to enter the adoption order in the adoption register.**
- (vi) The date of birth of the child shall be 26th October 2016 as per attached birth Certificate Serial No. [Particulars withheld].**
- (vii) That the legal guardians of the Child shall be H and M M.**
- (viii) The guardian ad litem is accordingly discharged.**

Orders to issue accordingly.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 16TH DAY OF NOVEMBER, 2018

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI

IN THE PRESENCE OF:

Miss Wambui Kibichu for the Applicant