



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 185 OF 2017 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY B K

BY

M M M AND M K M M (APPLICANTS)

JUDGMENT

1. The Applicants M M M and M K M M are in a monogamous marriage which was solemnized in 1993 at the Attorney General in Nairobi and a Christian Church Celebration at Chrisco Church, KICC in Nairobi in 1995. They had one son (L K) who passed on through a road accident in 2011. They wish to adopt the child known as Baby B K, through the Originating Summons dated 18th December, 2017.

2. From the pleadings the court gathers that the male Applicant works with [particulars withheld] as a Business Systems Manager while the female Applicant works with the [particulars withheld] Office as a Personal Assistant/Secretary. They reside in [particulars withheld] Court, Valley Acade in Kilimani Area of Nairobi and both profess the Christian faith.

3. Records indicate that the minor in this matter was given up for adoption by her biological mother. On 15th February, 2017, the child was committed to the New Life Home Trust – Kilimani by the Nairobi Children's court vide P&C Case No. 40 of 2017. The biological mother then signed a consent before a Commissioner for Oaths on 15th November, 2016. On 12th May, 2017 the Applicants took him into foster care with a view of adopting. A foster care agreement was signed on 12th May, 2017.

4. Prior to the hearing of the adoption application, Change Trust Adoption Agency prepared and filed a report dated 28th March, 2017. They also issued a Certificate of Serial No. [Particulars withheld] dated 28th March, 2017 declaring the child free for adoption. The guardian ad litem E W W filed a report on 19th September, 2018 which was favourable and recommended the adoption of the child by the Applicants.

5. An officer from the office of the Director of Children Services made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 23rd April, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicants and that the Applicants have met all the requirements in the statute.

6. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the child's biological father was dispensed with since his whereabouts are unknown, as stated in the consent recorded by the child's biological mother. The child was in court during the hearing and appeared to have bonded well with the Applicants. The Applicants' family members are said to be aware of the proposed adoption and support it.

7. From the foregoing, this court has formed the opinion that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 7th December, 2017 and order as follows:

- i. The Applicants, M M M and M K M M are hereby allowed to adopt Baby B K who shall henceforth be known as E N M.
- ii. Her date of birth shall be 26th August, 2016. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.
- iii. J J K and his wife E W K (good friends to the Applicants) are hereby appointed legal guardians of the child in the event that the Applicants die, or are incapacitated by ill-health.
- iv. The Registrar General is directed to enter this order in the Adoption Register.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

vi. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and DELIVERED in open court this 16th day of November 2018.

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L. A. ACHODE

JUDGE