



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 167 OF 2015 (O.S)**

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

**IN THE MATTER OF ADOPTION OF BABY S A O AKA S W W**

**BY**

**E W K (APPLICANT)**

**JUDGMENT**

1. The Applicant E W K is a Kenyan citizen. She is single and has never been married and has no biological children of her own. She wishes as a single Applicant to adopt the child known as Baby S A O aka S W W, a minor of the female sex, through the Originating Summons dated 26<sup>th</sup> June, 2015. The Applicant indicates that she is an administrator by profession and is financially stable.
2. The child who is the subject of this adoption was referred to Africa Gospel Church Centre in Nakuru, Ngata area on the 21<sup>st</sup> September, 2011 by the Nakuru Children's Department. This was after her mother was arrested for child neglect. The baby was committed to the care of African Gospel Church Baby Centre through the Chief Magistrate Court at Nakuru on the 21<sup>st</sup> September, 2011 vide P&C Case No. 841 of 2011. An admission letter to the home dated 21<sup>st</sup> September, 2011 indicates that the baby was severely malnourished and suffered from "kwashiorkor". The matter was reported at Nakuru Police Station, vide OB NO. 29/23/10/2012, more than one year after the rescue of the baby. This was after her mother absconded and never went back to look for her at the Children department concerned with the rescue.
3. A letter from the police dated 14<sup>th</sup> May, 2013 indicated that since the child was placed under the care of African Gospel Church Baby Centre no one had claimed her and her next of kin had not been traced by the police. Any assistance towards the child's best interest was recommended.
4. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services prepared and filed a report in court. They also issued a certificate No. 0029 dated 6<sup>th</sup> June, 2014 declaring the child free for adoption. The guardian ad litem Josephine Karanja filed a report dated 25<sup>th</sup> November, 2015 which was favourable and recommended the adoption of the child by the Applicant.
5. An officer from the office of the Director of Children Services conducted home visits and established that the Applicant lives in a two bedroomed house and is financially and emotionally capable of providing for the upkeep and education of the child. She filed a report on 28<sup>th</sup> July, 2017 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
6. The child was in court during the hearing and appeared to have bonded well with the Applicant. She was jovial and confident. She seemed to trust the Applicant and regard her as her parent. The Applicant's family members are said to be aware of the proposed adoption and support it.
7. The Applicant meets the social parameters that are considered relevant to her taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought. The child was released to her for foster care on 16<sup>th</sup> June, 2014 vide a Care and Placement agreement and has been in her continuous care and protection since then.
8. M W, a sister to the Applicant consented to be appointed legal guardian in the event that the Applicant is incapacitated and cannot care for the child.
9. Since the orders sought by the Applicants relate to a child, the best interests of the child must take center stage being of paramount importance as provided for under **Article 53(2)** of the **Constitution** and **section 4(3)** of the **Children Act No. 8 of 2001**. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant.

10. In the premise, I allow the prayers sought in the Originating Summons dated 26<sup>th</sup> June, 2015 and order as follows:

- i. The Applicant, E W K be and is hereby allowed to adopt **Baby S A O**, who shall henceforth be known as **S W W**.
- ii. Her date of birth shall be presumed to be 21<sup>st</sup> June, 2011.
- iii. 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 Nakuru.
- iv. M W is hereby appointed legal guardian of the child in the event that the Applicant dies, or is incapacitated by ill-health.
- v. The Registrar General is directed to enter this Order in the Adoption Register.
- vi. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vii. The guardian ad litem be and is hereby discharged.

It is so ordered.

**SIGNED DATED and DELIVERED in open court this 16<sup>th</sup> day of November 2018.**

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**L. A. ACHODE**

**JUDGE**