



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 11 OF 2018 (O.S)

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

IN THE MATTER OF ADOPTION OF BABY B M AKA K AKA A B

BY

H W N (APPLICANT)

JUDGMENT

1. The Applicant H W N 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 B M aka K aka a B, a minor of the male sex through the Originating Summons dated **29th January, 2018**. The Applicant indicates that she is a Businesswoman at [particulars withheld] and is financially stable.
2. The child who is the subject of this adoption was found by a Good Samaritan having been abandoned at Githurai 45 in Nairobi on 9th February, 2015. The matter was reported at Kasarani Police Station, vide OB NO. [particulars withheld] on 10th February, 2015. The baby was committed to the care of Happy Life Children's Home through the children's court at Nairobi vide C&P Case No. 84 of 2015.
3. A letter from the police dated 22nd April, 2016 indicated that since the child was placed under the care of Happy Life Children's Home no one had claimed him and his next of kin had not been traced. 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. [particulars withheld] dated 14th July, 2017 declaring the child free for adoption. The guardian ad litem M G filed a report dated 13th July, 2018 which was favourable and recommended the adoption of the child by the Applicant.
5. An officer from the office of the Director of Children's Services conducted home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. She filed a report on 20th June, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son 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. He was vivacious and confident. He seemed to trust the Applicant and regard her as his 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 25th August, 2017 vide a foster case agreement and has been in her continuous care and protection since then.
8. L W K, by affidavit sworn on 29th January, 2018 consented to be appointed legal guardians in the event that the Applicant is incapacitated and cannot care for the child.
9. It is important to note that, the orders sought by the Applicants relate to a child and as such the best interests of the child are what is 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. Reasons wherefore I allow the prayers sought in the Originating Summons dated 29th January, 2018 and order as follows:
 - i. The Applicant, H W N be and is hereby allowed to adopt **Baby B M** who shall henceforth be known as **K K W**.

ii. His date of birth shall be presumed to be 2nd April, 2013.

iii. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Githurai.

iv. L W K, 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 16th day of November 2018.

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L.A ACHODE

JUDGE