



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 27 OF 2018

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY A W A.K.A K K.....MINOR

BY

N J K..... APPLICANT

JUDGMENT

The Applicant, N J K sought by her Originating Summons and Affidavit in support, orders allowing her to adopt Baby A W a.k.a K K (hereinafter the child) whose name they want changed to K K. The Applicant is 45 years old, single and has not been blessed with children of her own thus the wish to adopt the child. She is a [particulars withheld] with the [particulars withheld] Kenya. The Applicant filed financial, health and clearance records that confirm that she will cater for the child's social growth and development.

The child in this matter was born on 3rd December 2015 at Kiandutu Health Centre as a premature baby weighing 1.7 Kgs and later admitted at Thika Level 5 Hospital. The mother abandoned the baby three days later on 6th December 2015 and her whereabouts are since then unknown. The matter was reported at Thika Police Station vide OB No. [Particulars Withheld]. The child was committed to Macheo Children's Home as a child in need of Care and Protection Case No. 31 of 2016 at the Children's Court at Thika on 9th February 2016 in accordance with Section 119 of the Children Act 2001 vide the Children's Court in Nairobi.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 18th October 2017. She has since then been in her continuous custody and care. According to correspondence from relevant police authorities at Thika Police Station, no one has come forward to claim the child. Kenya Children's Home Adoption Society issued a certificate declaring the child free for adoption pursuant to Section 156(1) of the Children Act. The said freeing certificate is Serial No. 1373 and the same is dated 20th September 2017. Kenya Children Homes filed their report on 8th May 2018 and recommended the adoption.

In an application filed on 12th March 2018 the Applicant sought orders that P K S be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to investigate the suitability of the Applicant to adopt the child and submit a report. On 10th May 2018 this Court issued an order appointing P K S as the child's guardian *ad litem*, and further directing that she and the Director of Children's Services file their respective reports in Court.

K S, the guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicant. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Director of Children's Services and filed on 13th July 2018. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicant to adopt the child.

This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to Section 159(1) (a) of the Children Act, 2001 since the child was abandoned at birth. This Court is satisfied that the Applicant is qualified and able to take care of the child. The home visit by the

guardian *ad litem* confirms that the Applicant is indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. She has no criminal record and is of good health. The child has bonded well with the Applicant according to the Guardian *ad litem*'s report. The child considers the Applicant her mother.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicant' application. The Applicant, N J K is hereby allowed to adopt Baby A W. Henceforth, the child shall be known as K K Her date of birth shall be 3rd December 2015. Her place of birth shall be Kiambu County. She is presumed to be a citizen of Kenya by birth. G T K sister to the Applicant is hereby appointed as the legal guardian of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 12TH DAY OF NOVEMBER 2018.

M. W. MUIGAI

JUDGE- FAMILY DIVISION HIGH COURT

IN THE PRESENCE OF;

M.O.B. OWINO FOR APPLICANT

PATRICK KINUTHIA COURT CLERK.