



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 53 OF 2016
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF
BABY R A.K.A. R N N.....MINOR

BY

J N M..... APPLICANT

JUDGMENT

The Applicant, J N M sought by the Originating Summons and Affidavit in support, orders allowing her to adopt Baby R a.k.a. R N N (hereinafter the child) whose name she wants changed to R N. The Applicant is 59 years old. She is a self-employed data analyst. She has not been blessed with children of her own thus the wish to adopt the child. The Applicant filed financial, health and clearance records that confirm that she is capable to cater for the child's social growth and development.

The child was abandoned at the Makini School, Kileleshwa and was found by a good samaritan who reported the matter to Kilimani Police Station on 15th December 2012 vide OB No. 18/15/12/2012. The child was formally committed to Mama Ngina Children's Home for care and protection on 16th September 2013 in accordance with **Section 119** of the **Children Act 2001** vide the Children's Court in Nairobi, **Protection and Care case number 284 of 2013**.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 19th December 2013. She has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Kilimani Police Station, no one has come forward to claim the child. Child Welfare Society of Kenya 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. 0706 and the same is dated 28th July 2014. Child Welfare Society filed their report on 9th June 2016 and recommended the adoption.

In an application filed on 21st April 2016, the Applicant sought orders that A M M 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 23rd June 2016 this Court issued an order appointing A M M as the child's guardian *ad litem*, and further directed that she and the Director of Children's Services file their respective reports in Court.

A M M, 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 14th March 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. They both have no criminal records and are 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's application. The Applicant, J N M, is hereby allowed to adopt Baby R a.k.a R N N. Henceforth, the child shall be known as R N. Her date of birth shall be 9th January 2012. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. S W G cousin to 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;

MR BURUGU FOR APPLICANT

PATRICK KINUTHIA COURT CLERK