



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. 26 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY E (I).....MINOR

BY

C G J T.....APPLICANT

JUDGMENT

The Applicant C G J T sought by her Originating Summons and Affidavit in support, orders allowing her to adopt Baby E (I) (hereinafter the child) whose name she wants changed to Y J. The applicant is 55 years old. She is an [particulars withheld] with the [particulars withheld]. She is not married and has not been blessed with children of her own thus she wishes to adopt the child. The Applicant filed employment health and clearance documents to confirm she is able to cater for the child's social growth and development.

The child in this matter was born in 7th August 2007. The child was found by Good Samaritan David Nyaruko Nyaga abandoned within Eastleigh and admitted at Pumwani Maternity Hospital for treatment. Child stayed in hospital until received by Child Welfare Society who reported the matter. The matter was reported to Shauri Moyo Police Station on 24th September 2009 vide OB No. [particulars withheld]. The child was committed at Mama Ngina Children's Home on 15th January 2008 for care and protection. The child was formally committed to Mama Ngina Children's Home for care and protection in accordance with **Section 119 of the Children Act 2001** vide the Children's Court in Nairobi, Protection and Care Case No. 178 of 2010.

The child was then placed in the custody of the Applicant for mandatory bonding prior to adoption on 3rd March 2007. She has since then been in her continuous custody and care. According to correspondence from relevant police authorities at Shauri Moyo 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. 0065 and the same is dated 29th October 2010. Child Welfare Society filed Report on 21st March 2017 and recommended the adoption.

In an application filed on 14th March 2017 the Applicant sought orders that N T 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 Applicants to adopt the child and submit a report. On 8th March 2018 this Court issued an order appointing N T M 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.

N T 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 16th October 2017. 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 as 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 C G J T is hereby allowed to adopt E (I). Henceforth, the child shall be known as Y J T. Her date of birth shall be 7th August 2007. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. R C K the Applicant's mother 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. OKONGO FOR APPLICANT

PATRICK KINUTHIA COURT CLERK.