



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.134 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF

BABY L

PGN.....1ST APPLICANT

TWG.....2ND APPLICANT

JUDGMENT

The applicants **PGN** and **TWG** are seeking to be authorized to adopt **Baby L** hereinafter referred to as the child. They seek that upon making the adoption the child be called **CNG**. They also seek that **PMK** and **AM** be the Legal Guardians of the child in the event of death or incapacity of the applicants before the child is of full age.

The applicants are both Kenyan citizens born in 1968 and 1973 respectively. The applicants were married on 5th August 2000 and have not been blessed with any child of their own. The 1st applicant is a taxi operator while the 2nd applicant is a farmer and a business lady. The applicants have no previous criminal record, are both of good health and do not abuse narcotics or alcohol. They both have sufficient income to take good care of the child.

According to Department of Children's Services Report the child was born at Ruiru Sub-District Hospital on 26th April 2010. He was left abandoned by his unknown mother at [Particulars Withheld] Hotel on 8th May 2010. A good Samaritan Dorothy Odwa took the child to Kasarani Police Station. The child was admitted to Happy Life Children's Home on 10th May, 2010 for protection and care through Kasarani Police Station as confirmed by their letter dated 10th May, 2010. The child was committed to Happy Life Children's Home on 8th July 2011 vide **Protection and Care Case Number 210 of 2011** by the Senior Magistrate's Court at Nairobi.

The child was declared free for adoption by KKPI Adoption Society on 27th July 2011 and issued with a certificate declaring a child free for adoption serial no. 160. The child was placed with the applicants for bonding on 28th August 2011 as per the foster care pending adoption agreement dated the same day and has been in their care ever since.

The Department of Children Services filed their report on 19 February 2018. The report recommends the local adoption as the applicant has fulfilled the legal requirements as provided under the Children's Act 2001. The officer observed that the child has bonded well with the applicants and the applicants are capable of providing proper parental love and care for the child. The guardian *ad litem* report was filed on 24th May 2018. The guardian *ad litem* recommends the adoption. The guardian *ad litem* observed that the child has bonded well with both parents and refers to them as mum and dad and has been accepted by both parents and is happy and well taken care of.

It is evident that the applicants have fulfilled all the legal requirements relating to the adoption of the child. This Court is satisfied that the applicants are qualified and able to take care of the child. They are financially stable and capable to provide for the upkeep and education of the child. It was evident that in the period that the applicants have had the custody of the child, the child bonded well with them.

Although the Applicants have complied with the legal requirements to adopt the child, the whereabouts of the child from birth to the time the matter was reported to Kasarani Police Station is contradictory between the Director of Children Services Report of 19th February 2018 and KKPI Adoption Society of 18th January 2017. These clarifications of the diverse facts be filed by both institutions before the adoption process is completed.

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

M. W. MUIGAI

JUDGE- FAMILY DIVISION HIGH COURT

IN THE PRESENCE OF;

MR. OCHIENG OGUTU FOR THE APPLICANT

PATRICK KINUTHIA COURT CLERK.