



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 6 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF THE ADOPTION OF

BABY L I.....MINOR

BY

N W KAPPLICANT

JUDGMENT

The Applicant, N W K sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby L I (hereinafter the child) whose name they want changed to K L K W. The Applicant is 51 years old. She is an [Particulars Withheld] at [particulars withheld]. She has never been married and has not been blessed with children of her own thus wishes to adopt the child.

The child in this matter was found abandoned on 9th July 2010 along railway line in Donholm area by a good Samaritan. The matter was reported at Buruburu Police Station and recorded vide O.B number [Particulars Withheld]. On 10th July 2010, Imani Rehabilitation Agency Kayole secured a vacancy for the child. The child was formally committed to Imani Rehabilitation Agency on 25th May 2011 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 number 146 of 2011.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 10th November 2013. She has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Buruburu Police Station, no one has come forward to claim the child. Kenyans to Kenyans Peace Initiative (KKPI) 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. 372 and the same is dated 31st October 2012.

In an application filed on 2nd February 2017 the Applicants sought orders that M W 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 March 2017 this Court issued an order appointing M W 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.

M W, 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 6th June 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.

The Applicant is a sole female Applicant seeking to adopt a male child contrary to Section 158 2(b) Children Act 2001. The court finds special circumstances to warrant the adoption as the child has a chance to grow up in a home with care and support and mother. Applicant has applied 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 records 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 his 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, N W K is hereby allowed to adopt Baby L I. Henceforth, the child shall be known as K L K W. Her date of birth shall be 10th June 2010. His place of birth shall be Nairobi County. He is presumed to be a citizen of Kenya by birth. P N K and M W N are hereby appointed as the legal guardians 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. OCHIENG FOR THE APPLICANT

PATRICK KINUTHIA COURT CLERK.