



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

ADOPTION CAUSE NO 8 OF 2017

AND

IN THE MATTER OF THE CHILDREN'S ACT

AND

IN THE MATTER OF BABY SN

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER BY:

ZNKAPPLICANT

RULING

1. By an Originating Summons dated 5th June, 2017 and filed 12th June 2017 and amended on 15th May, 2018 filed in court on the same date the Applicant herein **ZNK** sought for an order to adopt **BABY SN** whom she sought to rename him as **BABY SMZ**. The Applicant duly complied with the provisions of Section 158 and 159 of the Children's Act 2001.

2. The Applicant in compliance with the provisions of the children Act 2001 duly secured one **PKW** who agreed to be appointed as Guardian Ad Litem of the child sought to be adopted. The said Guardian Ad Litem was duly examined and found suitable by this court.

3. The Applicant herein is a Kenyan adult citizen. She is a resident of [Particulars Withheld] in Machakos County in the Republic of Kenya and in her Chamber Summons she had sought for the following prayers:-

(1) **THAT PKW** of C/o Post Office Number [...] – 90100 Machakos in the Republic of Kenya be appointed guardian ad litem in respect of the child **BABY SN**.

(2) **THAT** the Applicant **ZNK** be authorized to adopt **BABY SN** and the baby be known SMZ.

(3) **THAT AMF** be appointed legal guardian of the child.

(4) **THAT** the Director of Children's Services investigates the case and file a report.

(5) **AND IT IS DIRECTED** that the Registrar General shall make in the adopted Children's register an entry recording the adoption in accordance with the particulars set out in the schedule attached hereto.

4. Prayer (i) and (ii) of the said Originating Summons was granted during the hearing held on 6/6//2018, after an examination by the Court of the guardian *ad litem*. The Court during further hearings held on 11/10/2018 and 6/12/2018 admitted as evidence a declaration report by Change Trust Adoption Agency dated 10/6/2016 and filed in court on 6th December, 2018. The report by Emily Kimanzi the Sub- County Children's Officer Machakos dated 4th September, 2018 and filed in court and the guardian *ad litem*'s statement dated 4/05/2018 and filed in court on 6th June, 2018 were also adopted by the Court as evidence during the hearings.

5. **Baby SN** is a male child, presumed to have been born on 25th July, 2015. He was abandoned at the Post Natal Ward in Thika Level 5 Hospital. The child's mother one Beatrice Ng'endo absconded almost immediately after child birth. She had indicated one MM as her next of kin and the child's alleged father. The matter of abandonment was booked at Thika police station vide OB No.[Particulars Withheld]. On 26th August, 2015, Baby Samuel was committed to the care and protection of House of Charity through the Children's Court at Thika. His

committal is **Protection and Care Case No. 197 of 2015**. On 31st March, 2016, Thika police station confirmed that no one had claimed the child since he was reported abandoned. The Trust Case Committee sitting on the 10/06/2016 declared the **Baby SN** free for adoption vide Child's certificate serial number [Particulars Withheld] and the baby was placed with the Applicant in October, 2017. The Applicant has been visited and found suitable to adopt the baby. The baby has bonded well with the Applicant. The adoption is in the baby's best interest.

6. The Applicant **ZNK** is a resident of [Particulars Withheld] in Machakos County. She is a businesswoman. She approached the Adoption Society with an intention of being ratified for placement with a child for purposes of adopting a baby boy and she was placed with **Baby SN** in October, 2017.

7. The reports filed in Court confirm that the Applicant is mature and responsible, and has bonded well with **Baby SN** and all of them recommend the adoption. Having evaluated the facts of this adoption application, I note that it is seeking a local adoption and that the Applicant is at least 25 years of age and under the age of 65 years, and who wishes to adopt a male child. They have therefore met the requirement set out under Section 158 (1), (2) and (3) of the Children Act.

8. This court is also satisfied that the Applicant is qualified and able to take care of the child. The home visits by the guardian *ad litem*, the Change Trust Adoption Agency and the Children Officer established that the Applicant has the financial capability to provide for the upkeep and education of the child. The reports filed in Court pursuant to these visits also do recommend the Applicants adoption of **Baby SN**. Lastly, I observed the Applicant with **Baby SN** in court, and it was evident that they had bonded well and that the said child is well taken care of. I find the adoption herein is in the best interest of the said child.

9. This Court therefore forms the opinion that it would be in the best interest of **Baby SN** to be adopted by the Applicant. Consequently, the Applicant shall assume all parental rights and duties of the biological parents in respect of the adopted child, and shall treat the adopted child as if he was born to her. The Applicant has also been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child, and that the child shall have the right to maintenance and to inherit her property. The adoption order once made is absolute and irreversible, and the Applicant cannot give up the child owing to any subsequent unforeseen condition.

10. In the result the Applicant's originating summons is allowed in the following terms:

- (1) **THAT** the Applicant **ZNK** **be** and is hereby authorized to adopt the child **BABY SN** and the child to be known as **SMZ**.
- (2) **THAT AMF** shall be the legal guardian of the child.
- (3) **THAT** as the child was born in Kenya, he is hereby declared a Kenyan citizen by birth.
- (4) **THAT** the Registrar General is directed to enter this adoption order in the Children's Adoption register.
- (5) **THAT** the Guardian Ad litem is hereby discharged.

It is so ordered.

Dated, and delivered at Machakos this 7th day of December, 2018.

D.K. KEMEI

JUDGE