



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**ADOPTION CAUSE NO. 3 OF 2018**

**IN THE MATTER OF BABY MM**

**ON APPLICATION FOR AN ADOPTION ORDER**

**RULING**

1. This application is brought by way of Originating Summons dated 7<sup>th</sup> February, 2018. The Applicants **DMK** and **NGK** through their advocates Janet, Jackson & Susan LLP Advocates seek the following orders:

1. **THAT** the requirements of Section 158(4)(a) of the Children's Act be waived as provided for by Section 159(1) of the Act
2. **THAT** GM in the said Republic be appointed Guardian ad Litem in this case.
3. **THAT** the Applicants be authorized to adopt baby MM and the baby be known as MNM.
4. **THAT** DTK & PMM be appointed Legal Guardians of the child.
5. **THAT** the Director of Children's Department do investigate the case and file a report.
6. **THAT** it is directed that the Registrar-General shall make in the Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule attached hereto.

2. The Applicants **DMK** and **NGK** were married in 2009 and currently reside in Embakasi. They have no children. D operates his own business from 2017, he was previously employed by [Particulars Withheld] bank in 2012. N currently works for [Particulars Withheld] Bank since 2013. The couples challenge is inability to parent another child and hence desire to adopt **Baby MM**.

3. **GM** has no objection to the Applicants' desire to adopt baby **MM** as confirmed in his affidavit dated 21<sup>st</sup> January, 2018 and is willing to act as a guardian ad litem. **DTK & PMM** swore an affidavit to confirm consent to act as legal guardian dated 21<sup>st</sup> January, 2018 and also indicated that they have no objection to the Applicants adopting **Baby MM**.

4. Baby **MM** was presumably born on 1<sup>st</sup> September, 2016 and was abandoned by the mother at the [Particulars Withheld] slaughter house on the same day. The minor has no health challenge and has been under the care and control of the The Nest Childrens Home since 12th October, 2016 after committal pursuant to Protection and Case number 1875 of 2016 issued by the Chief Magistrates Court Narok.

5. On 26<sup>th</sup> May, 2017 Baby MM was declared free for adoption by the Case Committee of Little Angels Network pursuant to a certificate issued the same day and was placed in the care of the Applicants from 30<sup>th</sup> June, 2017 after an infant release agreement was executed between the Applicants and the Nest Children's Home.

6. On 30<sup>th</sup> July, 2018 the Court granted prayers 1, 2 and 5 of the application wherein it directed the Director of Children Services to conduct investigations as to the suitability of the Applicants to adopt **Baby MM** and submit a report and findings to Court. The minor was presumed a Kenyan citizen, he has a birth certificate No \*\*\*\*\* vide entry number \*\*\*\*\* and the requirement for a freeing certificate was complied with.

7. A Personnel in the Sub County Children's office conducted a Social Inquiry on the Applicants by visiting and interrogating them at their home. On 9<sup>th</sup> September, 2018 Ms Emily Kimanzi, the Sub County Children's Officer, Machakos filed a favourable report as to the

suitability of the Applicants to adopt baby **MM**.

8. On 30<sup>th</sup> July, 2018 the court directed the appointed guardian ad litem to file and serve her report within 14 days and Gilbert Marabi to file and serve his affidavit and the matter was fixed for hearing on 9<sup>th</sup> October, 2018.

9. **GM** filed his affidavit and report on 9<sup>th</sup> October, 2018.

10. On the said 9<sup>th</sup> October, 2018 the Applicants together with **PMM**, **DTK** and **GM** appeared before me to confirm the contents of their affidavits. Grace Ekambi from the Little Angels Network appeared and confirmed that the applicants were vetted and recommended that an adoption order be issued by the court. Also Emily Kimanzi, the county children's officer appeared before me to confirm that her report dated 4<sup>th</sup> September, 2018 was filed in court on 6<sup>th</sup> September, 2018 recommends the Applicants to adopt Baby **MM**. The matter was reserved for ruling on 5<sup>th</sup> December, 2018.

11. Upon reading the above report and satisfying myself that all the legal requirements have been adhered, this court is satisfied that the Applicants is a suitable person to adopt Baby **MM** and that she is financially stable and has the means to provide and care for him.

For the above reasons, the Court orders as follows;

- a. **THAT** the Applicants be and are hereby authorized to adopt **MM** to be known as **MNM**.
- b. **THAT DTK** and **PMM** be and are hereby appointed Legal Guardians of the minor.
- c. **THAT** the Registrar-General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.

It is so ordered.

**Dated, delivered and signed at Machakos this 5<sup>th</sup> day of December, 2018.**

**D.K KEMEI**

**JUDGE**