



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
ADOPTION CAUSE NO. 21 OF 2013
IN THE MATTER OF THE CHILDREN ACT
AND
IN THE MATTER OF THE ADOPTION OF BABY M M (A CHILD)
BY
F M AND F M....JOINT APPLICANTS
JUDGMENT OF THE COURT

Introduction

1.The Originating Summons before the court is an application for an Adoption orders under **Section 154 of the Children Act 2001**. The Originating Summons prays for orders that;

a. The applicants F M and F M be authorized to adopt the child baby M M.

2. Upon the making of the Adoption order the child be known as **M M M**.

3. The Originating Summons was accompanied with a Chamber Summons dated **10th July, 2013** which successfully sought orders appointing **K K N** to act as Guardian *Ad Litem* in respect of the adoption of the above baby. The court also directed the Director of Children's Services to prepare a Home Study Report and submit the same to the court.

4. The Originating Summons is also supported by statement of the applicants **F M and F M** in which they state that they wished to adopt baby **M M**, a male child born in Kenya. The applicants were born on 1967 and 1969 respectively. The applicants got married to each other in 1997. The applicants are both farmers. The applicants reside and have always resided in Kenya. The applicants intend to continue residing in Kenya. The applicants are Christians by faith. The applicants have no biological child. The applicants are of sound mind and have not been charged or convicted by a court of competent jurisdiction of any of the offences set out in the Third Schedule to the **Childrens' Act, 2001** or similar offences. The applicants are not homosexuals, and have exhibited certificates of good conduct from the Criminal Investigation Department in Kenya. The applicants have not received or agreed to receive, and no person has given or agreed to make or give them any payment or reward in consideration of the adoption. The applicants have not made any previous application for an adoption order in respect of the same child, and they are not related biologically to the child. The applicants are in good health. They desire that the identity should be kept confidential.

5. The child was received into applicants care and possession on 24th August, 2012 and has been continuously in their care and possession since that date. The child is Kenyan and of the African race. There are no details of the child's religious persuasion. If an adoption order is granted, it is proposed that the child be known as **M M M**.

6. Both applicants gave oral evidence in court on 26th October, 2016 in which they confirmed their intention to adopt the said baby, and confirmed the truth of their above statement.

7. A **Mr. Rasto Omolo**, the District Children Officer, Makueni also gave evidence recommending the couple for the said adoption. He filed a report dated 29th January, 2014 and filed herein on 22nd September, 2014.

8. Further, there is filed herein a report on 26th October, 2016 by **K K N**, the Guardian *Ad Litem* herein, recommending the application for adoption.

9. There is also a report by Child Welfare Society of Kenya filed herein on 21st September, 2015. The said report declares the child free for adoption vide a certificate also filed herein on 21st September, 2015.

Determination

10. The child herein was abandoned immediately upon birth. Details are in the report filed by Child Welfare Society filed herein. The child was finally released to the applicants. The child has bonded with the parents and knows them as such. This court was able to interview both the parents and the child in court. The court perceived that the parents genuinely love the child and that they are able and willing to adopt him as their own.

11. I have also considered the report by Guardian *Ad Litem* and the report of the District Children Officer. I am satisfied that the Originating Summons is merited and that the couple deserves to be given an opportunity to adopt the child. The child is also able to access a loving home to enable him to live an ordinary comfortable life.

12. The judgment of this court is that the Originating Summons is allowed in the following terms;

i. F M and F M are hereby allowed to adopt the child baby **M M** who shall henceforth be known as **M M M**.

That is the judgment of the court.

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E.K.O. OGOLA

JUDGE

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 14TH DAY OF FEBRUARY, 2017

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DAVID KEMEI

JUDGE

In the presence of:

No appearance for Applicants who are absent