

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 251 OF 2015

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY K M ALIAS S (MINOR)

S S OAPPLICANT

JUDGMENT

S S O (“the Applicant”) is a sole female applicant. The Applicant has never been married. She is employed as a Marketer by [particulars withheld]. She has no biological children of her own due to medical reasons. Thus, she wishes to adopt a child.

The Applicant seeks by her application to be allowed by this Court to adopt Baby K M alias S (hereafter “*the child*”). The child who is the subject of the present adoption proceedings is presumed to have been born on 1st July 2014. She was found abandoned at Maruri Shopping Centre on 5th October 2014 by a good Samaritan. A report on the matter of the abandoned child was made to Kianyaga Police Station on the same day and the same was recorded vide OB No.21/05/10/2014. The child was thereafter taken to Kianyaga Sub-District Hospital for medical attention. Upon being examined at the hospital, it emerged that the child had been poisoned using rat poison. She was treated and discharged from the hospital on 6th October 2014. The incident was reported to Kianyaga District Children Officer who managed to secure a placement for the child at New Life Home Trust. The Senior Principal Magistrate Children's Court sitting at Gichugu, in accordance with **Section 119** of the **Children Act**, committed the child to New Life Home Trust on 7th October 2014 vide **P&C No. 9/2014**. The child was admitted at the said home on 8th October 2014 for care and protection and this is evidenced by the child’s admission form into the home.

It is reported that the good Samaritan traced the child’s grandparents, B K G and E W W, who confirmed that the child belonged to their daughter, C N K whose whereabouts are unknown. The child’s grandparents believe that the child’s father is one P K whose whereabouts they do not also know. The child’s grandparents have expressed their unwillingness to take up responsibility over the child citing their inability to take care of the child due to financial constraints. They therefore gave their consents dated 17th November 2014 for the child’s adoption.

The child was placed in the custody of the Applicant on 14th March 2015 for mandatory bonding prior to adoption. She has since then been in the continuous custody and care of the Applicant. According to correspondence from relevant Police authorities at Kianyaga Police Station, the child’s biological parents are still at large. A report to that effect has been filed in Court. The adoption society, Little Angels Network issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. [particulars withheld] and the same is dated 13th March 2015.

In an application filed on 12th October 2015, the Applicant sought among others, orders from this Court that W L M be appointed as the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate the Applicant’s suitability to adopt the child and submit a report. The Applicant further sought for an order that upon adoption the child be known as M N W O. The Applicant also sought to have the Court appoint her brother, A T O and her sister-in-law C M K as the child’s legal

guardians. On 13th November 2015, this Court issued an order appointing W L M as the child's guardian ad litem, and further directing the guardian ad litem and the Director of Children's Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Little Angels Network, the relevant adoption society, prepared and filed in Court a favorable report in respect of 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 this report was similarly in favour of the proposed adoption. The guardian ad litem, W L M also filed the statutory report made under **Section 160(2)** of the **Children Act** in which she noted that the proposed adoption of the child by the Applicant is in the best interest of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. The Applicant filed financial documents, medical records professional and family recommendation. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consent of the maternal grandparents of the child to the proposed adoption of the child by the Applicant has been obtained. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children's Services established that the Applicant has the financial, social and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicant with the child in Court and it was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her. The child considers the Applicant to be her mother.

On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application. The Applicant, S S O, is hereby allowed to adopt Baby K M alias S. Henceforth, the child shall be known as M N W O. Her date of birth shall be 1st July 2014. Her place of birth shall be Kirinyaga County. She is presumed to be a citizen of Kenya by birth. The Applicant's brother, A T O and her sister-in-law C M K shall be the legal guardians of the child should such eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DELIVERED SIGNED & DATED AT NAIROBI THIS 13TH DAY OF FEBRUARY 2017

M. W. MUIGAI

JUDGE

In presence of:-