



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 289 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A ALIAS A L K ALIAS A C

F L S1ST APPLICANT

P N K2ND APPLICANT

JUDGMENT

The Applicants, F L S (“the 1st Applicant”) and P N K (“the 2nd Applicant”), seek by their application to be allowed by this Court to adopt Baby A alias A L K alias A C (hereafter “the child”). The Applicants are husband and wife. They celebrated their marriage on 29th December 2007 under the **African Christian Marriage and Divorce Act** (*now repealed*). They are both business persons. Both Applicants live together in Nairobi. They have been blessed with one child, a son, L M L.

The Applicants are sympathetic to the needs of needy children and therefore wish to provide a home for a needy child. They also want to expand their family through adoption.

The child who is the subject of the present adoption proceedings was rescued by police officers from an abortion clinic in Kayole within Nairobi County on 10th January 2013. She was presumed to have been born on the same day. A report on the incident was made to Kayole Police Station and was recorded vide OB No. 78/10/01/2013. The child was then taken to Mama Lucy Kibaki Hospital- Embakasi for medical attention on the same day. The Makadara District Children’s Officer was informed of the incident and managed to secure a temporary placement for the child at Nest Children’s Home where she was admitted on 6th February 2013 and this is evidenced by the child’s admission form into the said home.

The Resident Magistrate Children’s Court sitting at Makadara, in accordance with **Section 119** of the **Children Act**, committed the child to Nest Children’s Home on 6th September 2013 vide **P&C No. 6/2013**. The child was placed in the custody of the Applicants on 9th October 2013 for mandatory bonding prior to adoption. She has since then been in the continuous custody and care of the Applicants.

According to correspondence from relevant police authorities at Kayole Police Station, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child’s biological parents to the proposed adoption of the child by the Applicants. 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. 001362 and the same is dated 9th October 2013.

In an application filed on 9th December 2014, the Applicants sought among others, orders from this Court that A C S 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 Applicants to adopt the child and submit a report. The Applicants also sought to have the Court appoint P N K and A C S as the child's legal guardians. They further sought for an order that upon adoption the child be known as A C. On 23rd October 2015, this Court issued an order appointing A C S 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 favourable report in respect of the proposed adoption of the child by both Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, A C S, 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 Applicants would be in the best interests of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the joint Applicants to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child.

The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicants are 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 Applicants have the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be her parents.

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 Applicants. Hence, this Court allows the Applicants' application. The Applicants, F L S and P N K, are hereby allowed to adopt Baby A alias A L K alias A C. Henceforth, the child shall be known as A C. Her date of birth shall be 10th January 2013. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth.

P N K and A C S 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. It is so ordered.

DELIVERED DATED & SIGNED IN OPEN COURT ON 13TH FEBRUARY 2017.

M.W MUIGAI

JUDGE

In presence of:-