



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 12 OF 2016
IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY N P alias ABANDONED BABY GIRL

P W K.....1ST APPLICANT

M M D.....2ND APPLICANT

JUDGMENT

The Applicants, P W K (“the 1st Applicant”) and M M D (“the 2nd Applicant”) are husband and wife as evidenced by marriage certificate No [particulars withheld] attached to the Application. They were married on 20th July 1991. The 1st Applicant is a Kenyan citizen while the 2nd Applicant is an American. The Applicants are business persons. They have not been blessed with children of their own due to medical reasons. The Applicants have applied to this court to be allowed to adopt Baby N P alias Abandoned Baby Girl (hereafter “the child”).

The child who is the subject of the present adoption proceedings was found abandoned at Iriene area in Maua town on 19th November 2014. She was presumed to have been three (3) weeks old at the time. A report on the matter of the abandoned child was made at Maua Police Station and was recorded vide OB No. 51/19/11/2014.

The child was taken to Nyambene District Hospital on the same day for medical attention. The Igembe South Sub-County Children’s Office was informed of the incident and managed to secure a temporary placement for the child at New Life Home Trust, Nyeri where the child was admitted on 4th December 2014. The Senior Principal Magistrate’s Children’s Court sitting at Maua, in accordance with **Section 119** of the **Children Act**, committed the child to the said children’s home on 16th December 2014 vide **P&C No. 60/2014**.

She was transferred to New Life Home Trust, Kilimani on 5th December 2014. The Police at Maua Police Station wrote their final letter on 27th May 2015 that no relative of the child was traced and no-one claimed the child.

The child was placed in the custody of the Applicants on 4th September 2015 for mandatory bonding prior to adoption. She has since then been in the continuous custody and care of the Applicants.

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. [particulars withheld] and the same is dated 26th June 2015.

In an application filed on 2nd February 2016, the Applicants sought among others, orders from this Court that J W N 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 S M M, the 1st Applicant's sister and her husband L O M as the child's legal guardians.

They further sought for an order that upon adoption the child be known as N M M K. On 11th March 2016, this Court issued an order appointing J W N 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 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 favor of the proposed adoption. The guardian ad litem, J W N, 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. The Applicants attached medical records, financial statements and certificates of good conduct forms to the Application. 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 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, social 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, P W K and M M D, are hereby allowed to adopt Baby N P alias Abandoned Baby Girl. Henceforth, the child shall be known as N M M K. Her date of birth shall be 19th November 2014. Her place of birth shall be Igembe South Sub-County.

She is presumed to be a citizen of Kenya by birth. S M M, the 1st Applicant's sister and her husband L O M, 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 FEBRUARY 2017.

M.W MUIGAI

JUDGE

In presence of:-