



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 283 OF 2015**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**  
**AND**  
**IN THE MATTER OF I N W (MINOR)**

**D M K .....APPLICANT**

**JUDGMENT**

D M K (“the Applicant”) seeks by her application filed on 30<sup>th</sup> November 2015 to be allowed by this Court to adopt I N W (hereafter “the child”). The Applicant is employed as a [particulars withheld] at [particulars withheld] in Australia. She has never been married. She has one (1) biological daughter, A K born on 22<sup>nd</sup> August 2004. The child who is the subject of the present adoption proceedings was born on 19<sup>th</sup> December 2007. She is the daughter of J W W, a paternal cousin of the Applicant.

The whereabouts of child’s father is unknown. The child’s biological mother has two other children namely C K born on 29<sup>th</sup> December 2001 and I M who is an adult. The child’s biological mother approached KKPI Adoption Society on 27<sup>th</sup> April 2015 with the intention of giving up her children for adoption to the Applicant. She cited her inability to financially provide for the children as her reason for giving the children up for adoption. She stated that the children have been under the care of the Applicant’s father, A G K who has been supporting them both financially and emotionally since they were little. The Applicant’s father is now unable to continue taking care of the children due to illness. The Applicant wishes to step in and assume parental responsibility over the children hence these adoption proceedings. Both the child’s biological mother and the Applicant’s father have given their consents to the proposed adoption. This is therefore an adoption within a family.

The adoption society, Buckner Kenya Adoption Services issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. [...] and the same is dated 5<sup>th</sup> August 2015. In her application filed on 30<sup>th</sup> November 2015, the Applicant sought among others, orders from this Court that L M P 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 Applicant to adopt the child and submit a report. The Applicant also sought to have the Court appoint her brother, K K as the child’s legal guardian.

On 21<sup>st</sup> April 2016, this Court issued an order appointing L M P as the child’s guardian ad litem, and further directed the guardian ad litem and the Director of Children’s Services to file their respective reports in Court within forty five (45) days.

Pursuant to **Section 156(1)** of the **Children Act 1991**, before this matter came up for hearing, Buckner

Kenya Adoption Services, 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, L M P, 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. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption

of the child. The consent of the biological mother of the child has been obtained. The consent of the child’s father is dispensed with since his whereabouts is unknown. 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 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, D M K, is hereby allowed to adopt the child, I N W. The date of birth shall be 19<sup>th</sup> December, 2007 and place of birth is Meru, Kenya. She is presumed to be Kenyan citizen by birth. The Applicant’s brother, K K, shall be the legal guardian 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 DATED SIGNED IN OPEN COURT 13TH MARCH 2017**

**M. W. MUIGAI**

**JUDGE**

**IN THE PRESENCE OF:**

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