

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 291 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY GP

JUDGEMENT

1. The applicants, HMW and JWN, are Kenyan citizens. They are a married couple. They seek to adopt Baby GP. Their Originating Summons is dated 11th December 2015.

2. The child in question was abandoned near the Kitengela Police Station on 27th June 2014, and was handed over to the police station by good Samaritans. The police secured his admission at the Mahali pa Maisha Children's Home, where he was later formally committed by the Kajiado Children's Court. . The police were unable to trace his parents or other immediate relative. It is presumed that he was born on 26th June 2014.

3. The child was freed for adoption on 8th May 2015 by the Little Angels Network by their certificate number [particulars withheld]. The child was placed with the applicants on 20th April 2015.

4. To facilitate this adoption, the applicants have been assessed by the Little Angels Network, Buckner Kenya Adoption Services, the Director of Children Services and the guardian *ad litem*, S M. The four have compiled and filed their reports in court. That of the Director of Children Services is dated 27th September 2016, while that of the guardian *ad litem* is dated 28th November 2016. The report by the Little Angels Network is dated 8th May 2015, while that by the Buckner Kenya Adoption Services is undated but was filed in court on 11th February 2016.

5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child himself appears to have bonded well with them and he considers them to be his parents.

6. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicants. The applicants will be able to provide a home and a family for him to grow up in. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

7. I have taken note of the fact that the applicants took custody of the child before he had been freed for adoption. This is contrary to the very clear provisions of the Children Act, Cap 114, Laws of Kenya, on adoption. I have, however, taken cognisance of the fact that the child has bonded well with the applicants and considers them to be his parents. I have also noted that the applicants have been assessed and found suitable. It would be in the best interests of the child to allow the adoption despite that anomaly.

8. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-

(a)That the applicants, HMW and JWN, are hereby allowed to adopt the child Baby GP, who

shall hereafter be known GG;

(b) That it shall be presumed that the said child is Kenyan by birth and that he was born on 26th June 2014.

(c) That KN is hereby appointed legal guardian of the child in the event something untoward happens to the applicants;

(d) That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and

(e) That the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 10TH DAY OF MARCH, 2017.

W. MUSYOKA

JUDGE