

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 209 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY R. W.

JUDGEMENT

1. The applicants, D M N and J W C, are Kenyan citizens. They are a married couple. They seek to adopt Baby R W. Their Originating Summons is dated 11th December 2015.

2. The child in question was born on 4th April 2014, at [particulars withheld] Medical Clinic, to E W K, who gave up the child for adoption. She signed the relevant consent papers. She stated that she was a single woman with other children and that she was financially unstable. The details of the father of the child are given as P M, but his address or place of abode is not indicated. The mother indicated that the father of the child disappeared when she went to give birth.

3. The child was committed to the House of Charity Children's Home by the Nairobi Children's Court for care and protection. The child was freed for adoption on 29th May 2015 by the Little Angels Network, by their certificate number [particulars withheld]. The child was placed with the applicants on 18th May 2015.

4. To facilitate this adoption, the applicants have been assessed by the Little Angels Network, the Director of Children Services and the guardian *ad litem*, J M M. The three have compiled and filed their reports in court. That of the Director of Children Services is dated 1st July 2016, while that of the guardian *ad litem* is undated but was filed in court on 7th April 2016. The report by the Little Angels Network is dated 27th February 2015.

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 herself appears to have bonded well with them and he considers them to be her parents.

6. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicants. The applicants will be able to provide a home and a family for her 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 she 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 she 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 her 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, D M N and J W C, are hereby allowed to adopt the child Baby R W,

who shall hereafter be known C G M;

(b) That it is hereby declared that the said child is Kenyan by birth, born on 4th April 2014.

(c) That A M W C 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