



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
ADOPTION CAUSE NO. 257 OF 2015
IN THE MATTER OF THE CHILDRENS ACT NO.8 OF 2001
AND
IN THE MATTER OF BABY A Z (MINOR)
BY
L M M.....APPLICANT

JUDGMENT

The Applicant is an adult female person who is a Citizen of Kenya currently Residing and working for gain in Nairobi, Kenya. The Applicant is of general good health, is financially stable and has the ability to provide for the child. She has a close relationship with both her parents despite them being separated. She has a good educational background. She has never been married but is open to marriage in the future. The rest of the Applicant's family is open to the adoption. She has been educating her cousin's child and is happy that she has made a difference in his life. She is a Christian. She is of general good mental health. She has no criminal history.

The child was born to S. A. J., now 22 years old, and J. M., now 24 years old, on 13th January, 2015 at Vihiga District Hospital according to the Acknowledgment of birth notification of serial number [particulars withheld]. The child's biological parents signed the consent to willingly give up a child for adoption dated 16th October 2015. The child was committed into the care of New Life Home Trust located at Kisumu and this was facilitated by the Department of Children Services vide their report dated 21/1/2015. The committal was granted by the Senior Resident Magistrate Court **Protection and Care Case number 13/15** for a period of three years. The child was officially admitted into this institution on 14/1/2015. The case committee of Little Angels Network as prescribed by Regulation 16 of the Adoption Regulations 2005 deliberated on this matter on 8th May, 2015 and the child was declared free for Adoption by the Little Angels Adoption Society on 8th May, 2015 vide the certificate number [particulars withheld], as per **Section 156 of the Children's Act**.

S O O is the sworn guardian *ad litem* of baby A.Z in this matter. According to his report dated 16th September 2016, he observed and found the child bonded well with the Applicant. The child was in a conducive environment. The proposed adoptive parent is of good health and is financially stable.

The three months of mandatory foster care has been observed. The child is well adjusted within her new home environment and has continued to attain huge developmental milestones while under the care of the

Applicant. The Applicant has met all the necessary requirements to adopt and a post placement visit confirms that the child is thriving. It would be in the child's best interest for the court to grant orders for adoption.

As per the Director of Children Services Report, the Applicant is an adult person aged 38 years and is a Kenyan citizen. She has a good educational background and a stable career. She has a close relationship with her family. She is in a relationship, however she is currently focused on the child. Her fiancée relates well with the child in this matter and has no problem with the prospective adoption should he marry the Applicant. The child's biological parents consented to giving her up for adoption through their signed consents dated 3rd April 2015 and 7th April 2015, 6 weeks after birth in line with **Section 159 (8) (a) and (b) of the Children's Act 2001**.

Upon reliance on the above, the Director of Children Services reports that the application fulfills all legal requirements for adoption under the provisions of the Children's Act and Adoption would be in her best interest.

The Adoption Agency, the Little Angels Network Case Committee as prescribed by Regulation 16 of the Adoption Regulations 2005 deliberated on this matter in a meeting held on 8th May 2015 and was satisfied that the child in this matter was free for adoption. The child was willingly offered for adoption by her biological family and was unclaimed for more than 6 months and still remains unclaimed to this day. Thus **Section 158 (4) (a)** of the **Children's Act 2001** applies.

DETERMINATION

The Applicant prays that the Court authorize her to adopt baby A.Z and that A O and C M be appointed legal guardians of the child in the event that any misfortune befalls the Applicant rendering her incapable of taking care of the child. She also seeks orders that the Registrar General be ordered to make appropriate entries in the Adopted Children's Register and that the child be presumed a Kenyan Citizen born in Kenya and she be entitled to a Kenyan passport.

This is a local adoption but with its own unique circumstances in that the Applicant is single, wishes to be a single parent and is open to the idea of marriage in the future.

The Children Act, 2001 provides;

158. (1) an adoption order may be made upon the application of a sole applicant or jointly by two spouses where the applicant or at least one of the joint applicants—

(a) has attained the age of twenty-five years and is at least twenty-one years older than the child but has not attained the age of sixty-five years; or

(b) is a relative of the child; or

(c) is the mother or father of the child.

In light of the above, the Applicant has the right to make an application as a sole applicant for an adoption order.

The Applicant was assessed by the Guardian *ad Litem* and the Child Welfare Society and was found to be suitable to adopt. The Court finds that the Applicant has met the criteria of local adoptions and it would be in the child's best interest if she was adopted.

The Applicant has been duly assessed as evidenced by the aforementioned Reports and found capable to adopt the Child. In light of the above, this Court holds that the Applicant L M M is hereby authorized to adopt Baby A Z. The child shall be known as M Z K. She shall be presumed to be a Kenyan Citizen by birth. Her place of birth shall be Vihiga Kenya.

C M and A O are appointed to be the legal guardians of the child should any misfortune befall the Applicant.

The Registrar General is hereby ordered to enter this order into the Adoption Register. The guardian *ad litem* is hereby discharged.

READ AND DELIVERED IN OPEN COURT AT NAIROBI THIS 6TH DAY OF MARCH, 2017.

M.W.MUIGAI

JUDGE

IN THE PRESENCE OF:

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