



REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
MILIMANI
ADOPTION CAUSE NO. 125 OF 2015
IN THE MATTER OF THE CHILDREN'S ACT, 2001
AND
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY S AKA BABY S K
JUDGMENT

The Applicants in this matter are E M K and B W M who applied for an adoption order to adopt baby S. Their Application was by way of Originating Summons dated 12th May 2015.

The Applicants were married on 22nd April 2013 at the Registrar of Marriage under the Marriage Act, Cap 150 as evidenced by their marriage certificate of serial no. [Particulars withheld].

They were previously married under the Kisii Customary Law on 10th February 2000 although the same was not registered. Their marriage was blessed with one child of their own aged 13 years.

The First Applicant Mr. E M works as the Senior Superintendent Groundwater Officer and the Second Applicant Mrs. B W M owns a business in Nairobi. The Applicants reside in a four-bed roomed house in [particulars withheld], Kajiado County and are both Kenyan Citizens.

The Applicants wish to adopt the child as they have only be blessed with one child since they were married and they wish to expand their family.

The child in this matter is called Baby S. She is presumed to have been born on 22nd June 2013. She was found abandoned in a plastic bag at Tarsia Estate by an unknown mother. She was rescued by a good Samaritan Jane Aluoch Odongo who took her to a nearby hospital; Communal Oriented Services International for First Aid. She later took her to Embakasi Police Station and the matter was booked vide OB No. 19/23/6/2013.

The Child was then referred to Thomas Barnardo House where she was admitted on the 23rd June 2013 as a Child in need of care and protection. The Child was later committed to Thomas Barnardo house for care and protection via the Children's Office Langata at Nairobi Children's Court Milimani on 21st August 2013 vide **Protection and Care case No. 260/2013** Children Court in Nairobi for a period of 3 years.

Since the matter was reported to Embakasi Police Station, it was confirmed by a letter dated 10th March 2014 that no one had gone to claim the child.

The Child was declared free for adoption by the Kenya Children's Home Adoption Society Case Committee on its sitting of 12th March 2014 and a freeing certificate of **Serial no. [particulars withheld]** was issued pursuant to section **156(1) of the Children's Act, 2001**.

Ms C S M gave her consent to act as guardian *ad-litem* to Baby S was so appointed as the guardian *ad-litem* for the purposes of the adoption proceedings via a court order dated 26th June 2015. In her Report dated 10th May 2016, she stated that the Child exhibited a sense of attachment and bond with the prospective adoptive parents. She further asserted that the prospective adoptive parents spend more time with the Child and that they take good care of her. She further stated that the child has been well integrated into the family and thus recommended the adoption.

The Kenya Children Home Adoption Society filed a Report on 21st May 2015 in which they recommended that the Child herein be adopted by the Applicants. In the Report, they stated that a home visit and a subsequent interview was conducted at the Applicants' [particulars withheld] Residence with the aim of satisfying their suitability to adopt or otherwise in accordance to **Section 158(1)(a) of the Children's Act, 2001**.

The Applicants were found to be suitable potential adoptive parents by the Society's case committee sitting of 18th December 2013. The Applicants were placed with the child on 28th March 2014 from Thomas Barnados house after a successful bonding at the said home. Further, the Report asserted that the Applicants were taken through the guidelines for adoption which they understood and are willing to abide by. They also attended a training session for prospective adopters held monthly within the Adoption Society. Medical Reports adduced showed that the Applicants and their biological son are of good health. Moreover, the Applicants have no criminal history. The Society further deponed that the Applicants have fulfilled the legal requirements for Adoption and thus recommended that it is in the best interest of the child to be adopted by the Applicants.

The Director of Children's Services also filed a Report as required. In the report, she deponed that the Applicants have satisfied the legal requirements for Adoption under the Children's Act. She further stated that the Applicants have proved capable of taking on parental responsibility of the child during the statutory period prior to adoption and that they had proved to be responsible parents to their biological son. The Report further stated that the Applicants have met the social and financial capabilities and are thus fit to take on parental responsibilities.

DETERMINATION

The Applicants have been duly assessed as evidenced by the aforementioned Reports and found capable to adopt the Child. They have a biological child aged 13 years which means that they are capable and well conversant with parenting obligations. Moreover, they are both socially and economically capable to provide parental responsibility to the Child herein.

In light of the above, this Court holds that the Applicants E M K and B W M are hereby authorized to adopt Baby S. The Child shall be known as S K and she shall be presumed to be a Kenyan citizen by birth. Her place of birth shall be Nairobi, Kenya. D M K and N K L are appointed to be the legal guardians of the Child should any misfortune befall the Applicants. The Registrar General is hereby ordered to enter this order into the Adoption Register. The guardian *ad-litem* is hereby discharged.

DELIVERED SIGNED & DATED IN OPEN COURT ON 6TH MARCH 2017.

M.W.MUIGAI

JUDGE

IN THE PRESENCE OF;

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