



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE NO. 113 OF 2016
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
AND
IN THE ADOPTION OF BABY E M ALIAS BABY B (CHILD)
P N K).....APPLICANTS
D N N)

JUDGMENT

1. The Applicants made an application by way of an Originating Summons dated 6th September, 2016 seeking to adopt Baby E M alias Baby B to be known as G D N upon being adopted.
 2. The couple are Kenyan nationals and have been married since 2005 under Masaai customary law, the union of which was later formalized at the District Commissioner's office on 15th June, 2012. Their marriage certificate bearing serial No. [Particulars withheld] was annexed as evidence.
 3. The Applicants have one adopted child, K K N, whose adoption application was allowed on 16th June, 2014.
 4. Baby E M is presumed to have been born on 10th May, 2014. She was rescued from a pit latrine at [Particulars withheld] Sub-Location within Mwala on 1st June, 2014 having been dumped by the mother. The matter was reported at Mumbuni Police Station vide OB No. [Particulars withheld] and the child was rushed to Machakos Level 5 Hospital for medical assessment.
 5. The child was referred to Mahali Pa Maisha Children's Home by the Machakos Children's officer as shown by the letter dated 13th June, 2014. The Machakos Children's Court vide Protection and Care case No. 39/2014 committed the minor to Mahali pa Maisha Children's Home on 17th June, 2014.
 6. The Kenya Children's Home Adoption Society case committee declared Baby E free for adoption on 11th February, 2015 and pursuant to Section 156 (1) of the Children's Act, a freeing certificate bearing serial No. [Particulars withheld] was issued.
 7. The child was later placed with the Applicants following a foster care agreement dated 14th February, 2015 for mandatory foster care and bonding. The minor has been in the Applicants' care since then.
 8. No one came forward claiming the child and the letter from Mumbuni Police Post dated 22nd December, 2014 confirms that despite investigations having been done, efforts to trace any of her relatives have been in vain.
 9. Through a court order dated 24th October, 2016, G K W was appointed guardian ad litem in these proceedings and was tasked to assess the Applicants and file a report in court. The Director of Children Services was also to undertake the same and file a report. The reports filed in court are dated 20th March, 2017 and 15th November, 2016 respectively.
- The Kenya Children's Home Adoption Society conducted a home study at the Applicants' home in Narok and filed a report dated 9th September, 2016.

10. All these reports are favourable and recommend the proposed adoption. Applicants through their financial statements and medical records have shown their capability of financially and emotionally providing for the child's welfare. The reports also concur that the bonding between the minor and the Applicants' family has been excellent and she considers them her family.

11. In considering the application laid before this Honourable Court, the court shall take cognizance of Article 53(2) of the Constitution which provides for the child's best interests, being of a paramount importance in child matters. Emphasis on the same is also provided by Section 4 (2) (3) of the Children's Act, not to mention Article 3 of the United Nations convention on the Rights of the child and Article 4 of the African Charter on the Rights and Welfare of the child.

12. Having an abandoned child placed in a family that is willing to offer parental guidance will be in the best interests of the child; as it is in this family that the child will be able to gain identity and have a basis of connection to the society as a whole. The United Nations Convention on the Rights of the child provides under Article 7 that children have a right to a legally registered name, officially recognized by the government, the right to a nationality and also the right to be cared for by their parents. Further Article 8 is clear on right of children to have an identity, nationality and family ties.

13. The adoption process seeks to provide all the above to a minor who has been abandoned by his/her parents. Parental guidance will ensure all rights emanating from such care, for instance education, health services, leisure/play, are all met by the adoptive parents.

14. This court takes note that this is a local adoption and the Applicants, have satisfied the court in meeting the requirements for local adoption as provided under the Children's Act, 2001.

15. Looking at the evidence presented before this court and in the spirit of the best interests of the child, I do find that it will be in the minor's best interests to be adopted by the proposed parents. I hereby allow the application dated 6th September, 2016 and order the following:

1. That the Applicants, P N Kand D N N are hereby authorised to adopt Baby E M alias Baby B and the said child who will henceforth be known as G D N.
2. That C S N and R W G are hereby appointed legal guardians of the child in the event the adopters are incapacitated.
3. That the child will be taken to be a Kenyan citizen born on 10th May, 2014 at Machakos, Kenya.
4. That the Director of Immigration is directed to issue the minor child with a passport when required.
5. That the Registrar General is directed to enter this adoption order in the Adoption Register.
6. That the guardian ad litem be and is hereby discharged.

It is so ordered.

DATED AND DELIVERED IN OPEN COURT THIS 10TH DAY OF APRIL, 2017.

J.N. ONYIEGO

(JUDGE)