



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
ADOPTION CAUSE No. 219 OF 2015
IN THE MATTER OF BABY K A.K.A N B (CHILD)
AND
D N (1ST APPLICANT) &
R W (2ND APPLICANT)
IN THE MATTER OF THE CHILDREN'S ACT, 2001

JUDGMENT

D. K. N and R. W. herein after referred to as 'Applicants' by way of Originating Summons and an Affidavit in Support dated 2nd September 2015 sought orders that they be allowed to adopt Baby K a.k.a N.B, herein after referred to as 'Child'. They also sought orders that G. W. K be appointed Guardian *Ad-Litem* of the Child, that the Director of Children's Service do investigate their fitness to adopt the Child and if adopted that the child shall be known as O. P. K. N.

The Applicants are Citizens of Kenya as evidenced by copies of their Identification Cards produced before this Court. They are a married couple who have been married for 4 years under Kikuyu customary law They reside in Ikinu, Kiambu County within the Republic of Kenya and are both self employed. The Applicants have not been blessed with any children of their own and they seek adoption as an alternative way of growing their family.

Baby K a.k.a N. B was found abandoned opposite Mamba Village on 6th January 2014 behind the house of one P K who together with his neighbours rescued the child and took him to Makongeni Police Station and the report was made vide O.B No. [Particulars withheld]. The Officer in Charge of the Station referred the child to Thika level 5 Hospital where he admitted the same day. The child was then admitted at Limuru Children's Centre Baby Home as a child in need of Care and Protection on 16th January 2014. The said placement was through the District Children's Office of Thika Sub-County through Children's Court Thika on 5th February 2014 under **Protection and Care Case No. 19 of 2014** by a Court Committal Order dated 5th February 2014.

In their letter dated 15th July 2014 Makongeni Police Station stated that no one had gone to claim the child and that their efforts to trace the Child's relatives were futile. The child was freed by the Kenya Children's Homes Adoption Society Case Committee in its sitting of 13th August 2014 as evidenced by **Freeing Certificate of serial particulars withheld**. The child was subsequently placed with the

Applicants on 22nd September 2014 for the mandatory bonding period and have stayed with the child since then.

The Guardian *Ad-Litem* filed her consent to act as such and her Affidavit of Fitness on 2nd September 2015. She was appointed by the Court as the Guardian *Ad-Litem* of the child on 3rd February 2016. She filed her Report on 11th October 2016. In the Report, she stated that she knows the applicants very well as the 2nd Applicant is her sister. She stated they are staunch Christians, self employed and that they have live with the child in Riruta, Nairobi County.

Further, she stated that the Applicants have been of the child since 22nd September 2014 and that from her observation, the child has bonded well with his prospective adoptive parents and recognizes them as dad and mum. She found the child is healthy, happy and looks content. The child joined playgroup at *particulars withheld* and his needs are been well taken care of by the Applicants. She submitted that the Applicants are financially, socially and emotionally stable to take care of the minor and thus recommended the adoption.

Kenya Children's Home Adoption Society filed their report dated 11th June 2015. They submitted that they undertook a home visit and interviewed the Applicants so as to assess their suitability to adopt pursuant to **Section 158(1)(a) of the Children's Act, 2001**. They were officially approved for placement with the Child by the Society's case committee sitting of 10th September 2014. The Applicants were thereafter placed with the Child on 22nd September 2014 after a successful bonding at the Children's Home. The Applicants have been taken through the guidelines for adoption which they are willing to abide by. They attended a training session on 27th September 2014 for prospective adopters. They Applicants were found to be of good health and had no criminal records. The Report submitted that the Applicants had been examined medically and confirmed to be medically fit and stable to raise a child. It was confirmed that the Applicants had read the Explanatory Memorandum for Adopters and had voluntarily signed a certificate of acknowledgment and are ready to abide by the adoption conditions. The Society recommended the Adoption without any reservations.

Director of Children's Services filed their Report dated 14th September 2016 pursuant to a Court Order made on 3rd February 2016. The Report submitted one of the Officers was assigned to visit the Applicants on 7th September 2016. From the observations, the child had bonded well with the Applicants and their extended family. The Officer observed that the Applicants are socially and economically able to take care of the child. It was also submitted that the Applicants had no criminal records. The Applicants had fulfilled all the legal requirements for adoption and that they have proved capable to taking on parental responsibilities and thus recommended the Adoption.

DETERMINATION

From the foregoing, this is a Local Adoption where the Applicants qualify to adopt a child. They have been duly assessed as evidenced by the statutory Reports and found to be socially, financially and emotionally capable to take care of the child herein. Moreover, they have met all the prerequisites for adoptions under **section 156 (1) of the Children's Act, 2001**. It is confirmed that the child had been abandoned and is in need of an alternative family care and thus adoption will be in his best interests. Consents of the biological parents are hereby dispensed with pursuant to **Section 159(a) of the Children's Act 2001**, because the same cannot be obtained as the parent(s) were not traced.

Accordingly, D. N and R. W. K are allowed to adopt BABY N. B. The child shall be presumed to have been born 6th January 2014 in Thika Kiambu County. He is presumed to be Kenyan by birth. Henceforth, the child shall be known as O. P. N. K. P. N. N is hereby appointed as the legal guardian of the Child should any misfortune befall the Applicants. The Register General is hereby ordered to enter this Order in the Adoption Register. The guardian *ad-litem* is hereby discharged.

DATED, SIGNED & DELIVERED IN OPEN COURT THIS 5TH DAY OF APRIL 2017.

M.W.MUIGAI

JUDGE

IN THE PRESENCE OF;

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