

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 203 OF 2015

IN THE MATTER OF ADOPTION

BABY N W ALIAS BABY T F.....THE CHILD

BY

C K N.....THE APPLICANT

JUDGMENT

The Applicant is a sole female Applicant. She is a Kenyan citizen of majority age and below the age of 65 as evidenced by a copy of her Identification Card. She is a business lady and a Christian. She was born to N M (now deceased) and A N N who is a retired teacher residing at [Particulars Withheld] , Machakos currently undertaking farming. The Applicant was raised in Machakos, a place known as [Particulars Withheld] village. She is a second born in a family of six. The Applicant describes her relationship with her family as loving and caring. Currently the Applicant attends church at the [Particulars Withheld] church Machakos. The Applicant is not married but is open to the prospects of the same. She underwent medical evaluation. The Applicant chose her sister E M N (27 years) and her husband J M as the proposed legal guardians of the child. E is pursuing a nursing course at [Particulars Withheld] Kenya Medical Training College while J is a teacher. The couple understood their responsibility and signed the letter of consent dated 8th October 2013.

The child in this matter is 2 years and 9 months old. She was born on 20th January 2014 at [Particulars Withheld] District Hospital. Her mother N M P is mentally challenged as indicated in the [Particulars Withheld] District Hospital discharge abstract dated 22nd January 2016. According to a letter from the chief dated 25th February 2014, it is confirmed that the child's biological mother is retarded and she cannot take care of the child. A report by Little Angels Network shows that the biological mother comes from dysfunctional family and none of the family members were willing to either live with or take care of the child. The child's paternal grandfather, M G, aged 67 signed a consent to the same on 21st January 2014 and so did her paternal uncle, R G M, on 15th September 2014 in compliance with **Section 158(4) (a) of the Children Act 2001**. The child was then committed to New Life Children's' Home on 17th January, 2001 for a period of three years vide Protection and Care number 3 of 2014 at the Principal Magistrate's Court, Gichugu. She was then admitted to this home on 22nd January 2014. The minor was thereafter placed with the Applicant on 3rd October 2014 for the mandatory bonding period.

According to the Children's Officer's Report submitted pursuant to the High Court Order dated 19th June 2016: The minor was declared free for adoption on 2nd October 2014 by Little Angels Network Adoption Society, Certificate Serial Number [Particulars Withheld]. The proposed adoptive parent wishes to make a difference in someone's life. She is financially stable and can adequately provide for the child. The Applicant resides Machakos County, [Particulars Withheld]. Shopping Center. An officer from Nairobi County Children's services visited the Applicant's residence on 13th October 2016 and confirmed that the Applicant lives in a permanent structure that is conducive for raising the minor. The child bonded well with her prospective mother and her to be Aunt (the proposed legal guardian). She appeared happy healthy and friendly. The Applicant is responsible and mature. She presented a certificate of good conduct of serial number [Particulars Withheld]. which shows that she has no criminal record. The Applicant's

siblings and extended family support the adoption. The Applicant fulfils the legal requirements for local adoption under the **Children Act 2001**. The Director of Children Service recommends that the court rule in favor of the application by C K N, to adopt the child. On adoption, the child will be named T M.

Little Angels Network filed a report on 17th September 2015 which confirms the details of the child's birth as per the documents presented to this society by New Life Home Trust and interviews carried out by Simon Macharia, an officer of Little Angels Network. This report further confirms that the child's biological uncle and grandfather were visited by an officer of this children's society and a meeting was held where they expressed inability to care for the child and upon being guided on, and understanding the steps to take in giving up the child, they both filled out and signed the required consent forms including the explanatory Memorandum for biological Parent/Guardian. It was after this that the child was presented before the Children's' court at Gichugu for committal into the care of New Life Home Trust in Nyeri. The case committee of Little Angels Network as prescribed by **Regulation 16 of the Adoption Regulations 2005**, deliberated on this matter in a meeting on 2nd October 2014 and was satisfied that the child herein is available for adoption according to **Section 156 of the Children's Act 2001** and this would be in her best interest. The certificate declaring the child free for adoption of serial number [Particulars Withheld]. was attached to this report.

The guardian *ad litem* appointed in this matter is M M K. By an affidavit filed on 2nd September 2015, she accepted this role and was appointed by an order of this court dated 19th June 2016. She further filed a report on 8th November 2016 which confirms the above detailed of the Applicant and the child. The report states that the Applicant is self employed and has steady income. The Applicant is mentally and physically fit to take care of the child. The child and the Applicant have a very strong bond and therefore there is no objection as to the orders for adoption of the child being granted.

DETERMINATION

Upon careful consideration of the Application, it is clear that the Child matter is in need of alternative family care. Therefore adoption will be in her best interests. The Applicant, C K N, has complied with the provisions under **Sections 158 (a) of the Children Act 2001**. Being a sole female Applicant adopting a female child, the Applicant is within the scope of **Section 158(2) of the Children Act 2001** which allows a sole female Applicant to adopt a female child. The Applicant is hereby allowed to adopt Baby T F. Henceforth, the child shall be known as T M. She will be presumed to have been born on 20th January 2014, in Kirinyaga County and a Kenyan Citizen by birth.

E M N, sister to the Applicant, shall be the legal guardian of the child should any eventualities arise. This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian *ad litem* is hereby discharged. It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 3RD DAY OF APRIL 2017.

MARGARET W. MUIGAI

JUDGE