



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 26 OF 2016

IN THE MATTER OF

BABY J T.....THE CHILD

AND

IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER

BY

D N M.....1ST APPLICANT

J G W K.....2ND APPLICANT

JUDGMENT

The Applicants herein D N M and G W K, by way of Originating Summons supported by a statement and an Affidavit dated 22nd January 2016 sought for orders to adopt J T (herein referred to as the 'Child'). In that Application, they also sought for orders that J M K be appointed as legal guardians of the Child and that J M be appointed as Guardian *ad-litem*.

The Applicants are a married couple both of whom are below the age of 65 years. They are citizens of Kenya and currently reside in Limuru within the Republic of Kenya. The 1st Applicant is a Media Consultant by profession and the 2nd Applicant is a Marketer by profession. They wish to adopt the Child herein because they have not been blessed with children of their own and they thus opted for adoption as an alternative means of growing their family.

The Child in this matter is Baby J T. He is presumed to have been born in 2nd May 2014. He was found abandoned in Kagwe trading centre in Lari Sub County on 18th June. He was rescued by a Good Samaritan and taken to Lari Police Station where the matter was reported and recorded vide O.B No. [particulars withheld] and later referred to Limuru Children's Office which secured his temporal placement at Limuru Children's Centre Baby Home. He was admitted to the said Home as a Child in need of care and protection on 20th June 2014.

The minor was then committed to the said Home for care and protection by the Children's Court at Limuru on 13th August 2014 vide Protection and Care Case No. 14 of 2014 Committal Order. It was asserted by Lari Police Station through their letter dated 13th February 2015 that no one had gone to claim the Child and their efforts to trace his family have been futile. Accordingly, the minor was declared free for adoption by the Kenya Children's Home Adoption Society's Case Committee on 11th March 2015

under a freeing certificate of serial no. [Particulars withheld] issued pursuant to **section 156(1) of the Children's Act, 2001**. The Child was later placed with the Applicants on 13th May 2015 for the mandatory bonding period and has since remained in their care and custody.

J M; the proposed Guardian *ad-litem* gave his consent to act as such on 22nd January 2016. He was appointed as Guardian *ad-litem* vide a court order dated 23rd June 2016 and subsequently filed a Report on 14th December 2016. In the Report, he stated that he has known the Applicants for over 10 years and that ever since their placement with the Child, they have developed a good relationship with him and the child has fitted very well with the family. Further, he stated that the Child has been enrolled at [Particulars withheld] Academy as a Baby Class pupil. He further stated that he was confident that the Applicants will take good care of the Child and thus recommended that they be allowed to adopt him.

Kenya Children's Home Adoption Society also filed their Report dated 7th March 2016 after conducting a home study to the Applicant's residential home. They stated that the Applicants were assessed and found to be suitable adoptive parents after which they were placed with the Child. Further, the Report confirmed that the Applicants were socially, emotionally and financially capable of taking care of the Child. The Report showed that they had no criminal records as evidenced by their certificate of good conduct of serial nos. [Particulars withheld]. Medical Reports showed that they were of good health and strength. The Report also confirmed that that the Applicants had successfully gone through the pre-adoption training and counseling. The Society submitted that the Applicants had satisfied all the requirements for adoption and it will thus be in the best interests of the child for him to be adopted by the Applicants.

The Director of Children Services also filed their Report dated 27th October 2016. In the Report, they stated that the Applicants have been living with the child since 13th May 2015 and they have adequately provided for his need. They stated that from their observation, the Child had bonded well with the prospective adoptive parents and that the Applicants are; responsible, mature, emotionally and financially stable to adopt the Child. Accordingly, they recommended the adoption without any reservations.

DETERMINATION

From the foregoing, this is a Local Adoption where the Applicants qualify to adopt a Child. The Applicants have been duly assessed and found to be socially, financially and emotionally capable of adopting the Child as evidenced by the Reports. Additionally, the Applicants have met the prerequisites for Adoption under the **Children's Act, 2001**.

Having considered the Application, it is clear that the Child had been abandoned and is in need of an alternative family care and protection. In this regard, pursuant to **Section 159(a) of the Children's Act 2001**, the consent of the biological parents has been dispensed with as the same cannot be obtained.

Having fulfilled all the requirements for Local Adoption under the Children's Act, 2001, this Court orders that, the Applicants D N M and G W K, are hereby authorized to adopt Baby J T. Henceforth, the Child shall be known as M N and he shall be presumed to be a Kenyan citizen by birth born in 2nd May 2014 within Kiambu County. J M K, sister to the Female Applicant, is hereby appointed to be the legal guardian 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.`

DATED, SIGNED & DELIVERED IN OPEN COURT THIS 3RD DAY OF APRIL 2017

MARGARET W. MUIGAI

JUDGE