



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 85 OF 2014
IN THE MATTER OF THE CHILDREN ACT
AND
IN THE MATTER OF BABY J C alias E B A
R N M.....1ST APPLICANT
A W N N.....2ND APPLICANT

JUDGMENT

The Applicants, R N M (“the 1st Applicant”) and A W N N (“the 2nd Applicant”), seek by their application to be allowed by this Court to adopt Baby J C alias E B A (hereafter “the child”). The Applicants are husband and wife. They celebrated their marriage on 12th February 2000 at the PECA St. Andrew’s Church in Nairobi under the **African Christian Marriage and Divorce Act (now repealed)**. The 1st Applicant is a brand consultant. He runs a branding consultancy firm known as *[particulars withheld]*. The 2nd Applicant is a marketing entrepreneur. Both Applicants live together in Nairobi. They have one (1) biological child, a son born on 3rd November 2000. The Applicants are sympathetic to the needs of needy children and therefore wish to provide a home for a needy child. They also want to expand their family. Thus, the Applicants wish to adopt a child.

The child who is the subject of the present adoption proceedings was born on 28th February 2007 at the New Nyanza Provincial Hospital. He was given up for adoption to the Kisumu District Children’s Officer by his biological mother after being labelled a taboo baby for being born out of an incestuous relationship. The child was on advice of the Kisumu District Children’s Officer admitted at New Life Home Trust-Kisumu on 14th May 2007. The Chief Magistrate Children’s Court sitting at Winam, in accordance with **Section 119** of the **Children Act**, committed the child to the said children’s home on 14th June 2007 vide **P&C No 1/2007**. The child was thereafter transferred to New Life Home Trust-Nakuru on 25th September 2007. He was placed in the custody of the Applicants on 14th January 2012 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicants. The consent of the biological mother of the child to the adoption was obtained on 11th December 2009. Little Angels Network, an adoption society, issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. *[particulars withheld]* and the same is dated 21st March 2012.

In an application filed on 19th March 2014, the Applicants sought among others, orders from this Court that C M be appointed as the child's guardian ad litem, and that the Director of Children's Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report. The Applicants also sought to have the Court appoint P A M M, the 1st Applicant's brother and his wife C N M as the child's legal guardians. They further sought for an order that upon adoption the child be known as J N M. On 9th May 2014, this Court issued an order appointing C M as the child's guardian ad litem, and further directing the guardian ad litem and the Director of Children's Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Little Angels Network, the relevant adoption society, prepared and filed in Court a favourable report in respect of the proposed adoption of the child by both Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, C M, also filed the statutory report made under **Section 160(2)** of the **Children Act** in which she noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the joint Applicants to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological mother of the child was obtained. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be his parents.

On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Hence, this Court allows the Applicants' application. The Applicants, R N M and A W N N, are hereby allowed to adopt Baby J C alias E B A. Henceforth, the child shall be known as J N M. P A M M, the 1st Applicant's brother and his wife C N M shall be the legal guardians of the child should such eventuality 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.

DELIVERED AND SIGNED IN OPEN COURT AT NAIROBI THIS 7TH DAY OF MARCH, 2016

M.W. MUIGAI

JUDGE

In the presence of:

Mweni Nyokabi for Applicant