



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 105 OF 2015 (OS)

IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001

AND

IN THE MATTER OF ADOPTION OF BABY P M Alias M M

BY

A T T AND P J E (APPLICANTS)

JUDGMENT

1. The Applicants, **A T T** and **P J E**, are a dual citizen of Kenya and the United States of America, and dual citizen of United States of America and United Kingdom respectively. They are in a monogamous marriage which was solemnized in Philadelphia, Pennsylvania, on 16th August, 2000. They have no children of their own. They have brought an Originating Summons dated 7th April 2015 seeking permission to adopt **Baby P.M Alias M.M**, an infant of male sex. **A T T** is [particulars withheld] Consultant in [particulars withheld], while **P J E**, is a [particulars withheld] at the [particulars withheld]. They reside in Nairobi and are both Christians.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy at Kenyatta National Hospital by his mother one M M O. The matter was reported at Kenyatta Police Post and an entry made vide OB No. 19/18/05/2014. On 26th September, 2014 the child was admitted to Nest Children's Home for care and protection. The child was officially committed to the same Children's Home by the Children's Court at Nairobi, vide P&C Case No. 261 of 2014. A letter dated 4th December 2014 from Kenyatta Police Post confirms that no one has gone to claim or inquire after the child to date.
3. The child was declared free for adoption on 10th December, 2014 by the Little Angels Network Adoption Society vide certificate No. 001581. He was released into the custody of the Applicants for mandatory foster care pending adoption on 17th December, 2014. They also signed a foster agreement the same day. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Little Angels Network, an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. The guardian ad litem, M/s. Minaxi Karia filed a report that was favourable and recommended the adoption of the child by the Applicants. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report.

5. The United States Central Authority in accordance with Article 5 of the, the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption confirmed that the Applicants had been approved by the United States authorities. According to a Communique from the said office dated 14th April, 2015 and annexed to the Originating Summons, a Kenyan adoption would be recognised immediately in United States of America and the United States of America Embassy in Nairobi will have authority to issue the child with a United States of America passport upon presentation of the adoption order. The child will at the same time obtain United States of America citizenship.
6. The proposed adoption also received local approval by the Little Angels Network Adoption Society. When the Director Children Services declined to provide a report to the court, an application dated 18th September, 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, the court ordered in a ruling dated 4th December 2015 that the report of the Director of Children Services could be dispensed with in the circumstances of this cause.
7. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and clearly considered the Applicants as his parents.
8. From the foregoing the court is satisfied that all the legal requirements for an international adoption have been met, and consequently makes the following orders:
 - a. That the Applicants, **A T T** and **P J E**, are hereby allowed to adopt Baby **P M Alias M M** who shall be hereinafter known as **S P T E**.
 - b. His date of birth shall be presumed to be 17th May 2014.
 - c. He is presumed to have been born in Kenya and the place of birth shall be Nairobi. He is therefore presumed to be Kenyan by birth.
 - d. M M Z and L K Z (first Applicant's brother and sister in-law) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
 - e. The Registrar-General is hereby directed to enter this adoption order in the Adoption Register;
 - f. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 1st DAY OF April 2016.

L. A. Achode

JUDGE