



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 235 OF 2015 (OS)

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

IN THE MATTER OF ADOPTION OF BABY G M

BY

S W N (APPLICANT)

JUDGMENT

1. The Applicant S W N is a Kenyan citizen. She is single and has no child of her own. She wishes to adopt the child known as Baby G M a minor of the female sex through the Originating Summons dated 22nd September, 2015. The Applicant indicates that she is a business lady. She resides at Ruaka Estate.
2. The child who is the subject of this adoption was found by a Good Samaritan having been abandoned at Ronda Estate Nakuru area on 5th August 2014. The matter was reported to Nakuru Police Station, via OB No. 18/2/8/14. On 1st August 2014, she was referred to Imani Children's Home. On 23rd September, 2014 the Nakuru Children's Court committed the child to the same home vide P&C Case No. ***[particulars withheld]***.
3. On 23rd March, 2015 the child was discharged from Imani Children's Home and placed in the care of the Applicant with a view for adoption. The Applicant also signed a Foster Care Agreement dated the same day. Since then the child has been in the continuous custody and care of the Applicant.
4. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services, an adoption society prepared and filed a report in court. They also issued a certificate No. ***[particulars withheld]*** dated 6th March, 2015 declaring the child free for adoption. The guardian ad litem M/s. L K filed a report which was favourable and recommended the adoption of the child by the Applicant.
5. The Director of Children's Services has also made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 5th July, 2016 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicant as opposed to living all her life in an institution as an abandoned child.
6. The child was in court during the hearing and appeared to have bonded well with the Applicant. She was jovial and clearly seemed to trust the Applicant. She regarded her as her parent. The Applicant's family members are aware of the proposed adoption and support it.
7. After a careful assessment of the reports filed herein and from the observation of the interaction of the

Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. The Applicant being aged 43 years old, she is older than the child by more than 21 years as required by the law.

8. More importantly, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

“A child’s best interests are of paramount importance in every matter concerning the child.”

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

9. From the foregoing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Reasons wherefore I allow the prayers sought in the Originating Summons dated 22nd September, 2015 and order as follows:

- i) The Applicant, S W N is hereby allowed to adopt **Baby G M** who shall henceforth be known as **Z W**.
- ii) Her date of birth shall be presumed to be 1st June, 2014. She is presumed to have been born in Kenya and the place of birth shall be Nakuru.
- iii) G N N and I W K (brother and sister in law to the Applicant), are hereby appointed legal guardians of the child in the event that the Applicant dies or is incapacitated by ill-health.
- iv) The Registrar General is directed to enter this order in the Adoption Register.
- v) The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi) The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED and **DELIVERED** in open court this **15th** day of **September 2016**.

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L. A. ACHODE

JUDGE