



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. 269 OF 2015 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY N N ALIAS BABY E

BY

J W M (APPLICANT)

JUDGMENT

1. The Applicant J W M is a Kenyan citizen. She is single having separated from her husband and has no child of her own. She wishes to adopt the child known as Baby N N Alias Baby E a minor of the female sex, through the Originating Summons dated 2nd November, 2015. The Applicant indicates that she is an Administrative Officer with World Food Programme. She resides at Garden Estate.
2. The child who is the subject of this adoption was found abandoned within [particulars withheld] Hill on 29th September, 2014. The matter was reported to Karuri Police Station, via OB No. 34/29/9/2014. She was later referred to Nest Children's Home, where she was admitted on the same day. On 12th June, 2015 the Kiambu Chief Magistrate's Court committed the child to the same home vide P&C Case No. 50/2015. A final letter from Police Station dated 23rd April, 2015 asserts that the biological parents of the child were not traced nor did anyone come forward to claim the child.
3. On 29th June, 2015 the child was discharged from Nest Children's Home and placed in the care of the Applicant with a view to 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 27th June, 2015 declaring the child free for adoption. The guardian ad litem H N K M 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 13th June, 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 54 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 2nd November, 2015 and order as follows:

- i) The Applicant, J M is hereby allowed to adopt Baby N N **alias Baby E** who shall henceforth be known as **N N M**.
- ii) Her date of birth shall be presumed to be 23rd September, 2014. She is presumed to have been born in Kenya and the place of birth shall be Kiambu.
- iii) H M and C M (Applicant’s sisters), are hereby appointed legal guardian 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