

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 299 OF 2014
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY C (MINOR)

C N M.....APPLICANT

JUDGMENT

CNM (“the Applicant”) is a sole female applicant. She is a business lady. She is divorced and has no biological children of her own. Thus, she wishes to adopt a child.

The Applicant seeks by her application to be allowed by this Court to adopt Baby C (hereafter “*the child*”). The child who is the subject of the present adoption proceedings was found abandoned within Kenyatta National Hospital compound on 20th July 2013. She was presumed to be aged four (4) months. A report on the matter of the abandoned child was made to Kenyatta Police Post and the same was recorded vide OB No [Particulars Withheld]. The child was admitted at the Kenyatta National Hospital for medical attention where she remained until 1st August 2012. The Nairobi Provincial Children’s Officer was informed of the incident and referred the child to Child Welfare Society of Kenya. The Child Welfare Society of Kenya managed to secure placement for the child at Hope House Babies Home where she was admitted for care and protection on 1st August 2012 and this is evidenced by the child’s admission form into the said home.

The Senior Resident Magistrate Children’s Court sitting at Nairobi, in accordance with **Section 119** of the **Children Act**, committed the child to Hope House Babies Home on 26th November 2012 vide **P&C No. 518/2012**. The child was placed in the custody of the Applicant on 4th February 2013 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicant. According to correspondence from relevant police authorities at Kenyatta Police Post, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child’s biological parents to the proposed adoption of the child by the Applicant. The adoption society, Child Welfare Society of Kenya issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. 0689 and the same is dated 15th July 2014.

In an application filed on 27th January 2015, the Applicant sought among others, orders from this Court that ENN be appointed as the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate her suitability to adopt the child and submit a report. She further sought for an order that upon adoption the child be known as CW. The Applicant also sought to have the Court appoint XXX as the child’s legal guardian. On 13th February 2015, this Court issued an order appointing ENN 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, Child Welfare Society of Kenya, the relevant adoption society, prepared and filed in Court a favourable report in respect

of the proposed adoption of the child by the Applicant. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Director of Children’s Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, ENN, 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 Applicant is in the best interest of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth, and her biological parents could not be traced to give their consent. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of Children’s Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicant with the child in Court and it was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her. The child considers the Applicant to be her mother.

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 Applicant. Hence, this Court allows the Applicant’s application. The Applicant, CNM, is hereby allowed to adopt Baby C. Henceforth, the child shall be known as CW. Her date of birth shall be 20th April 2012. Her place of birth shall be Nairobi County. She is presumed to be a citizen of Kenya by birth. XXX shall be the legal guardian 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.

DATED AT NAIROBI THIS 10TH DAY OF NOVEMBER 2016

M. W. MUIGAI

JUDGE

In presence of:-

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