



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 171 OF 2015 (OS)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001
IN THE MATTER OF ADOPTION OF BABY G S
BY
N G M AND N N K (APPLICANTS)

JUDGMENT

1. The Applicants N G M and N N K are in a monogamous marriage which was solemnized at Maximum Miracle Centre in Nairobi 3rd September, 2005. They have another child in the family, T B G born on 4th May, 2013 who is also in the process of being adopted in Adoption cause No. 190 of 2015.
2. The Applicants wish to adopt the child known as Baby G S a minor of female sex, through the Originating Summons dated 19th June, 2015. They indicate that they are both self-employed business man and woman respectively. They reside at High Rise, Nairobi and both profess the Christians faith
3. The child in this matter, according to records, was found by a Good Samaritan abandoned beside a river in Gatundu on 26th April 2013. She was estimated to be 5 days old. The matter was reported to the Gatundu Police Station where it was booked vide OB No. 9/26/4/2013. The child was admitted at Gatundu District Hospital for six days and upon discharge, she was admitted to New Life Home in Kilimani Nairobi on 2nd May 2013 for care and protection.
4. On 30th April 2013, the child had been officially committed to the same Home by the Gatundu Children's court vide Protection and Care Case No. 2 of 2013. A letter dated 12th November 2013 from Gatundu Police Station confirmed that the biological parents of the child have not been traced and neither has anyone come forward to claim the child.
5. The child was declared free for adoption on 23rd December, 2013 by the Kenyans to Kenyans Peace Initiative vide certificate No. *[particulars withheld]* in accordance with **Section 156(1)** of the **Children Act 2001**. The child was released to the Applicants upon the signing of a foster care agreement on 3rd January, 2014. Since then she has been in the continuous custody and care of the Applicants and has since started schooling.
6. Prior to the hearing of the adoption application, Kenyans to Kenyans Peace Initiative an adoption society prepared and filed a report in court. The Adoption Society, guardian ad litem and the Director of

Children's Services 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.

7. The Director of Children's Services also filed a report dated 7th September, 2016 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the daughter of the Applicants and growing up in a loving home amongst family, rather than growing up in an institution.

8. The guardian ad litem Mr. S A O also filed a report that was favourable and recommended the adoption of the child by the Applicants.

9. The child was in court during the hearing and appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants.

10. The main consideration in an application such as this is that the best interest of the child is paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this issue as follows:

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

This principle also finds expression under the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

11. This is a local adoption where the Applicants in my opinion fulfil the requirements for local adoption under the Children Act, 2001. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter. The child has thrived under their care. Secondly they meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter on a permanent basis as would be conferred by the adoption order sought.

12. 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 Applicants. Reasons wherefore the prayers sought in the Originating Summons dated 19th June, 2015 are allowed with orders as follows:

- i. The Applicants, N G M and N N K are hereby allowed to adopt **Baby G S** who shall henceforth be known as **G N G**.
- ii. Her date of birth shall be presumed to be 24th April 2013. She is presumed to have been born in Kenya in accordance with **Article 14 (3)** of the **Constitution**, and the place of birth shall be Gatundu.
- iii. L W (sister to the male Applicant) is hereby appointed legal guardian of the child in the event that the Applicants die or are 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 **10th** day of **November, 2016**.

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L. A. ACHODE

JUDGE

In the presence ofAdvocate for the Applicants