

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 149 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY A K

S W W.....APPLICANT

JUDGMENT

Before me is an application by the Applicant, S W W, seeking to be allowed by this Court to adopt Baby A K. The Applicant, a sole female applicant, is employed by *[particulars withheld]* Partners at Nairobi where she works as an *[particulars withheld]*. The Applicant is single and wishes to adopt a child because she loves children and would like a needy child to grow in a loving family. The child, Baby A K (hereafter “the child”), was voluntarily given up for adoption by her biological mother who was a minor at the time of giving birth. The child was born on 18th July 2013 at Mbale Rural Hospital and was subsequently referred to Springs of Life Children’s Home on 19th July 2013 for care and protection.

The child was thereafter committed to Springs of Life Children’s Home on 26th September 2013 for care and protection by the Principal Magistrate’s Court at Vihiga per committal warrant No. 10/2013. G K, the biological mother of the child, and G M, the biological grandmother of the child, filled out and duly signed the “Adoption of Children Explanatory Memorandum” and the “Mother/Parents Offering a Child for Adoption” forms on the 28th October 2013. The child was later placed by the Child Welfare Society of Kenya (hereafter “the Adoption Society”) in the temporary foster care of the Applicant on 9th December 2013. Subsequently, the child was declared by the Adoption Society to be free for adoption on 30th June 2014 as evidenced by the Certificate of Declaring a Child Free for Adoption, Serial Number 0677.

The Applicant filed an application for adoption on 29th May 2014 seeking, among others, orders from this Court that K G M be appointed the child’s guardian ad litem, and that the Director of Children’s Services be ordered to investigate the suitability of the Applicant to adopt the child and submit a report on the same. The Applicant also sought to have the Court appoint E N W, the Applicant’s sister, as the child’s legal guardian, and to order that upon adoption the child be known as I W W. On 12th August 2014, this Court issued an order appointing K G M 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.

Prior to the hearing of the adoption case, the Adoption Society, Child Welfare Society of Kenya, prepared a report on the proposed adoption of the child by the Applicant which was filed in court. They also issued a certificate dated 30th June 2014 declaring the child free for adoption. The Director of Children’s Services also prepared a report which is on the Courts record. The guardian ad litem, K G M, also prepared a report which was filed in court. All the statutory reports on the suitability of the Applicant to adopt the child are favourable and recommend that the Court allows the Applicant to adopt the child.

This Court has carefully evaluated the relevant facts of the Applicant’s application for adoption. This is a local adoption and it is evident that the Applicant has fulfilled all the legal requirements pertaining to the

adoption of the child under the provisions of the **Children Act**. The consents of the child's biological parents were obtained. The child's biological grandmother also gave her consent to the adoption of the child.

This court has satisfied itself that the Applicant is qualified and able to take care of the child. The respective reports on the home visits by the guardian ad litem, the Adoption Society and the Director of the Children's Services indicate that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This is on account of the fact that the Applicant has been assessed and found capable of taking on parental responsibility over the child on a permanent basis. The child has also been assessed and found to have bonded well with other members of the Applicant's family. Moreover, this Court observed the Applicant with the child when they attended Court. It was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her and that they enjoy a loving mother-daughter relationship. The child considers the Applicant to be her parent.

On the basis of a careful examination of the documents presented before the Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interests of the child to be adopted by the Applicant. In particular, having considered the initial circumstances that led the child to be given up for adoption, this Court finds it to be in the best interests of the child to grow up in a family where she is loved, nurtured and protected with parental care. Accordingly, the sole Applicant's application for adoption of the child is allowed. In this regard, the Applicant, S W W, is hereby allowed to adopt Baby A K. Henceforth, the child shall be known as I W W. Her date of birth shall be 18th July 2013. Her place of birth shall be Mbale, Kenya. She is therefore presumed to be a citizen of Kenya by birth. E W, the Applicant's sister, shall be the legal guardian of the child should such eventuality arise. I direct the Registrar General to 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 MARCH, 2015

In the presence of;

Ms Okoth holding brief for Ms Mbanya for the Applicant.

M. MUIGAI

JUDGE