



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO.171 OF 2013**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 2001**

**AND**

**IN THE MATTER OF CHILD R.W (INFANT)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY G N N**

**JUDGMENT.**

1. The applicant, G N N, is a 49 year old single lady working as a Kindergarten teacher. She seeks to be allowed to adopt child R.W who is 7 years old. The child was born on 4th August 2007 and offered for adoption by her father G K G on 24th June 2008 through the Thomas Barnado Children's Home in Nairobi. This was after her biological mother absconded and abandoned the child and the father was unable to care for the child on his own. The abandonment was reported at the Central Police station and recorded in the Occurrence Book as Number 80/13/02/08. Efforts to trace the mother by both the father and the Police have proved futile. The child was placed in the custody of Thomas Barnado Home on 24th June 2008 to which she was formally committed on 28/11/2008 by the Children's Court at Nairobi Care and Protection Case No.365 of 2008.

2. The child was placed with the applicant on 31st December 2008 and has since been under the applicant's continuous care and custody. The child was later declared free for adoption by the Kenya Children's Home Adoption Society on 14/01/2009 and a certificate to that effect issued. This Court notes that placement of the child before being declared free for adoption goes against section 156 of the Children Act. However, in the best interest of the child and in the wider interest of justice, I do not take issue with the lapse.

3. The report prepared by the Director of Children Services and that of the guardian *ad litem* J W G show that the applicant is modest and in a position to continue catering for the minor without strain. She is reported to be financially, socially and morally upright. The child is reported as having thrived remarkably and continues to enjoy the love and joy of having a parent.

4. It is noted that although the child's father is alive, he has willingly consented to the adoption due to financial constraints and his unpreparedness to cater for the child. He signed an affidavit of his consent to that effect in line with **section 158 (4) (b)** of the **Children Act**. The mother's consent is hereby dispensed with as she absconded and abandoned the child and her whereabouts unknown. This court is of the view that the best interests of the child will be served by this adoption as it will enable the child grow and develop in a family environment. The applicant will assume all the rights and obligations of the parents of the child, and treat the child as if it was born to her. The child is entitled to inherit her property. Further, this adoption shall be final and binding during the child's lifetime, and the applicant will not give it up owing to any subsequent unforeseen behaviour or other changes.

5. This Court is satisfied that the applicant has met all the requirements for a local adoption under the **Children Act 2001**. The following orders shall issue:-

- a. G N N is hereby allowed to adopt child R.W who shall henceforth be known as G W;
- b. S M N is hereby appointed the legal guardian of the child should anything happen to the applicant

- before she is of age;
- c. the Registrar General is directed to enter this adoption in the Adoptions Register; and
  - d. the guardian *ad litem* is hereby discharged.

**DATED and DELIVERED at NAIROBI this 6<sup>th</sup> day of March 2015**

**A.O. MUCHELULE**

**JUDGE**