

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 128 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY P

I M K.....1ST APPLICANT

J M M.....2ND APPLICANT

J U D G M E N T

The Applicants, I M K and J M M, are husband and wife. They were married on 25th April 1998. The 1st Applicant is a teacher while the 2nd Applicant is a Civil Servant. The Applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby Patience (the child). The child was born on 17th November 2010. The child's biological mother is S W M. Her father is said to have died in June, 2010. She was given up for adoption to the Kenya Children's Home Adoption Society by her biological mother on 23rd November 2010 citing her inability to raise the child as the reason she was offering the child for adoption. Thereafter, the child was placed under the custody of Thomas Barnardo House for care and protection. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 9th March 2011 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 24th June 2011. They took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, Kenya Children's Homes, an Adoption Society, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 12th April 2011. The Director of Children's Services prepared a report which is on record. The guardian ad litem, G I, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological mother was obtained on 25th March 2011. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the applicants have the financial capability to provide for the upkeep and education of the child. This court observed the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants her parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the

applicants. I allow the applicants' application for adoption. The applicants, I M K and J M M, are hereby allowed to adopt Baby P. Henceforth, the child shall be known as A P W M. Her date of birth shall be 17th February 2010. Her place of birth shall be St. Marys Health Services Nairobi. N W N, the sister of the 2nd Applicant 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. I hereby discharge the guardian ad litem from exercising that role. It is so ordered.

DATED AT NAIROBI THIS 17TH DAY OF MARCH, 2014

L. KIMARU

JUDGE