

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 5 OF 2005

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY M

S.N.....1ST APPLICANT

J.W.N.....2ND APPLICANT

J U D G M E N T

The applicants, S.N and J.W.N, are husband and wife. They were married on 19th December 1998. The 1st Applicant is a businessman while the 2nd Applicant is a Project Assistant at the *[particulars withheld]*. 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 M (the child). The child was born on 21st November 2003 at Kenyatta National Hospital in Nairobi. She is the daughter of S.W. The child's biological father's name is given as P.N. He is said to have denied paternity. The biological mother gave the child for adoption at birth to Mama Ngina Children's Home. She cited her single status and inability to raise the child as the reason she was offering the child for adoption. The child's biological mother did not return to sign a formal consent for adoption. A report was made to Langata Police Station on 12th June 2007. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 12th February 2004. They took custody of the child on the same day. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Child Welfare Society of Kenya, 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 9th July 2007. The Director of Children's Services prepared a report which is on record. The guardian ad litem, N.N.N, 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 of the child was obtained since the child was voluntarily offered for adoption. 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 and emotional capability to provide for the upkeep and education of the child. This court observed that 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, S.N and J.W.N, are hereby allowed to adopt Baby M. Henceforth, the child shall be known as A.G.N. Her date of birth shall be 21st November 2003. Her place of birth shall be Kenyatta National Hospital in Nairobi, Kenya. M.N.M , a friend of the applicants, 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. It is so ordered.

DATED AT NAIROBI THIS 10TH DAY OF MARCH, 2014

L. KIMARU

JUDGE