

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 27 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A H *alias* A A

C A T.....1ST APPLICANT

K M T.....2ND APPLICANT

J U D G M E N T

The applicants, C A T and K M T, are American nationals. They were married on 3rd August 2007. The Applicants are missionary teachers with ***[particulars withheld]*** Church currently serving as teachers at ***[particulars withheld]*** Academy in Kijabe, Kenya. They have been residents in Kenya since 12th August 2010. The Applicants have been blessed with three (3) biological children. They have also adopted a child from America now aged 16 years. The applicants wish to adopt another child. They have therefore made this application as foreign residents in Kenya. This is under the Rule that allows foreigners who have been in Kenya for a period of more than three (3) years to adopt a child as such. Baby A H *alias* A A, (the child), the subject of these adoption proceedings was presumed to have been born on 25th February 2012. She was found abandoned on 25th September 2012 at Suton area, within Kasarani, Nairobi. A report was made to Kasarani Police Station on the same day. Thereafter, the child was released to the custody of Happy Life Children's Home- Nairobi on 26th September 2012 for care and protection. On 28th September 2012 she was transferred to New Life Home Trust. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 25th February 2013 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 16th September 2013. 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, the Adoption Society, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 4th September 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, L K, 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 an adoption by foreign residents in Kenya. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. 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. The applicants proved their capacity to provide for the adopted child by the fact that they have previously adopted another child.

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, C A T and K M T, are hereby

allowed to adopt Baby A H alias A A. Henceforth, the child shall be known as A A T. Her date of birth shall be 25th February, 2012. Her place of birth shall be Nairobi, Kenya. She is presumed to be a Kenyan citizen by birth. C E L and J L L, brother in-law and sister of the 2nd applicant shall be the legal guardians 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 7TH DAY OF NOVEMBER, 2014

M. MUIGAI

JUDGE