

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 174 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A *alias* I M - MINOR

L M VAPPLICANT

J U D G M E N T

The applicant, L M V, is a sole female applicant. She is a Dutch citizen. The applicant is a teacher at the *[particulars withheld]* in Nairobi. She has never been married. She wishes to adopt a child. The applicant has been a resident in Kenya since 15th August 2010. She has therefore made this application as a foreign resident 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. The child, Baby A *alias* I M was born on 18th August 2013 at Kibera in Nairobi County. She is the daughter of W M O (minor). The child's biological father is unknown as she was conceived out of a rape incident. The biological mother gave the child for adoption at birth through Little Angels Network on 23rd August 2013 citing her inability to raise the child. The consent to give up her child for adoption was witnessed by the child's maternal grandmother, E N. O. The child was handed over to New Life Home Trust. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 4th November 2013 pending formal adoption proceedings. The Applicant was given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 6th January 2014. She took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicant.

Prior to the hearing of the adoption, the Adoption Society, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 5th February 2014. The Director of Children's Services prepared a report which is on record. The guardian ad litem, J W M, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicant to adopt the child. I have evaluated the facts of this adoption. This is an adoption by a foreign resident in Kenya. It is evident that the applicant has fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological mother of the child to the adoption was obtained. This court is satisfied that the applicant is 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 applicant has the financial and emotional capability to provide for the upkeep and education of the child. This court observed that the applicant with the child in 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. The child considers the applicant her parent.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicant. I allow the applicant's application for adoption. The applicant, L M V, is hereby allowed to adopt Baby A *alias* I M. Henceforth, the child shall be known as I A M V. Her date of birth shall be 18th August 2013. Her place of birth shall be Kibera, Nairobi- Kenya. She is presumed to be a Kenyan citizen by birth. V A V A and M V, brother in law and sister to the 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