

REPUBLIC OF KENYA

High Court at Nairobi (Milimani Commercial Courts)

Adoption Cause 135 of 2011

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J.I alias Y.I

L.W.K.....1ST APPLICANT

P.W.W.....2ND APPLICANT

JUDGMENT

The applicants, L.W and P.W, are husband and wife. They were customarily married in 1979 but formalized their marriage on 5th March 2010 at the District Commissioner's Office, Murang'a South. The 1st applicant is works with the Nairobi City Council while the 2nd applicant is a housewife. The Applicants have not been blessed with biological children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to be allowed to adopt baby J.I (the child). The child was born on 12th May 2007 and abandoned on the same day at Stone City within Kayole Estate. A report was made to Kayole Police Station on the same day. The child was placed under the care of Imani Children's Home on the same day. The Nairobi Children's Court did place the legal custody of the child to the said Children's Home on 18th April 2008 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 7th October 2010. 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 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 14th September 2010. The Director of Children's Services has prepared a report which is on record. The guardian ad litem, J.W 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 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 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, L.W and P.W, are hereby allowed to adopt Baby J.I. Henceforth the child shall be known as E.Y.K. D.M,K, the 1st applicant's

brother, 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 4th DAY OF APRIL 2013

L. KIMARU

JUDGE