



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO. E14 OF 2020 (O.S)
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF A BABY A

BY

MNN AND PKK

(APPLICANTS)

JUDGMENT

1. The Applicants MNN and PKK are in a monogamous marriage which was solemnized at P.C.E.A [particulars withheld] Church in Nyeri on 11th August, 2007 as evinced by the Certificate of Marriage Serial No. [particulars withheld]. They have no children of their own and wish to adopt a male child known as Baby A through the originating summons dated 7th July, 2020.
2. The pleadings indicate that the 1st Applicant MNN is a driver at [particulars withheld] Engineering Company and PKK, the 2nd Applicant is a [particulars withheld] farmer. They reside at Mwioko next to Kahawa Sukari Estate in Nairobi County and both profess the Christian faith.
3. The records before the court indicate that the minor in this matter was presumably born on 30th November, 2018 and was found abandoned at a dumpsite in Zimmerman. The matter was reported to Kasarani Police Station where it was booked as OB No. xx/xx/12/2018. From the police station the child was handed over to Happy Life Children's Home for care and protection pending a committal order.
4. On 20th February, 2019, the Resident Magistrate sitting in Nairobi committed the child vide P & C 189 of 2019 to Happy Life Children's Home. On 12th June, 2019 Kasarani Police issued a final letter confirming that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 27th July, 2019 the Applicants took the child into foster care with a view of adopting. A foster agreement was signed on the same day.
5. Prior to the hearing of the adoption application, Buckner Adoption Services prepared and filed a report dated 17th September, 2020. They also issued a Certificate Serial Number [particulars withheld] declaring the child free for adoption. The guardian ad litem RSA filed a report dated 30th April, 2021 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Kenya Children's Homes conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 19th April, 2021 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants. He will also grow up in a stable home and the Applicants were found to have fulfilled the statutory requirements for Adoption.
7. This is a local adoption and from the record, the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give their consent. The child who is now 2 years old was present virtually in court during the hearing and appeared to have bonded well with the Applicants. The Applicants appeared warm towards the child and the child appeared to be free with them.
8. I also note that the 1st applicant was born on 2nd August, 1981 and is 39 years old while the 2nd applicant was born on 17th May, 1978 and is therefore 43 years old. They are therefore within the age limit bracket eligible to adopt being joint adults having attained the age of twenty-five years and are at least twenty-one years older than the child but have not attained the age of sixty-five years as provided by **Section 158 (1) (a)** of the Children's Act No. 8 of 2011.
9. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons

wherefore, I allow the prayers sought in the Originating Summons dated 7th July, 2020 and Order as follows:

- i. The Applicants MNN and PKK be and are hereby allowed to adopt **Baby A** who shall henceforth be known as **TNN**.
- ii. His date of birth shall be presumed to be 30th November, 2018. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.
- iii. AWN is hereby appointed the legal guardian in the event that the Applicants die, or are incapacitated by ill health.
- iv. The Registrar General is directed to enter this Order in the Adopted Children's Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.
- vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 15TH DAY OF JULY, 2021.

.....

L. A. ACHODE

HIGH COURT JUDGE

In the presence ofAdvocate for the Applicants