



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 105 OF 2019

IN THE MATTER OF THE CHILDREN'S ACT 2001

AND

IN THE MATTER OF BABY DJ alias LM (CHILD)

AND

IN THE MATTER OF APPLICATION BY ANM AND RWK FOR THE ADOPTION OF BABY DJ alias LM (CHILD)

ANM.....1ST APPLICANT

RWK.....2ND APPLICANT

JUDGMENT

On 18th July 2019, **ANM** and **RWK**, hereinafter “the Applicants” filed an Originating Summons under Sections 157 and 160 and all other enabling provisions of the Children’s Act 2001 and Legal Notice No. 75 of 2002 seeking an adoption order in respect of **BABY DJ** Alias **LM**. In that Origination Summons, the Applicants are seeking the following orders:

1. THAT the consent of the biological parents of **BABY DJ** Alias **LM** be and is hereby dispensed with since the infant was abandoned at birth by his biological mother.
2. THAT the Applicants be and are hereby authorized to adopt **BABY DJ** Alias **LM** and the child be called **JNN** henceforth.
3. THAT the Registrar-General do make appropriate entries in the Adopted Children’s Register in respect of **JNN**.
4. THAT **SN** of Identity Card No. [...] and **JWM** of Identity Card No. [...] be and are hereby appointed as legal guardians of **JNN** in the event of death or incapacity of the Applicants.
5. That the court does issue such other orders as may be necessary in the best interest of the child.
6. THAT costs be in the cause.

In their Statement in support of the Originating Summons, the Applicants state that they are married. They have attached a certificate of marriage showing 25th October 2018 as the date of that marriage. They have attached their identity cards showing that both are Kenya citizens of African descent. ANM was born in 1967 and RWK was born in 1971. They have been living with the child providing for all his needs since 1st March 2017 when the child was placed under their foster care. They state further that they live in Riruta Satellite in Nairobi County and that they have sufficient family income and finances to take care of the child. They have also attached certificates of good conduct from the police showing that they do not have previous criminal records. They state that they are Christians and attend [Particulars withheld] Church of Kenya in Riruta.

From the attached documents, the child was born on 26th December 2015 at Meru Teaching and Referral Hospital to BN. A copy of a Birth Certificate to that effect has been attached to the Affidavit of the Applicants dated 12th September 2019. The child was admitted to the paediatric ward of the same hospital suffering from tuberculosis on 5th February 2016. In early July 2016 his mother abandoned him at the hospital. The matter was reported at Meru Police Station and recorded on OB No. [...]. Following that report the child was placed at Neema

House Infant Rescue Centre on 30th August 2016. Through a court order from the Children's Court at Meru dated 30th August 2016 in Care and Protection Case No. [...] the child was committed to the Neema House Infant Rescue Centre. On 16th January 2017 the police at Meru Police Station confirmed that no one had claimed the child since he was reported abandoned through a letter of the same date.

The file records show that CHANGE TRUST declared the child free for adoption through a Child Freeing Report dated 26th December 2015 and issued certificate Serial No. [...] of the same date to that effect.

On 12th September 2019 this court appointed **MMM** of identity card No. [...] as Guardian Ad Litem of **BABY DJ** Alias **LM**. On the same date the court directed the Guardian Ad Litem and the Director of Children's Services in the Ministry of Labour and Social Protection State Department of Social Protection to investigate the suitability of the Applicants to adopt the child and file a report to that effect within 45 days.

The Report from the Director of Children's Services is dated 25th November 2019. It is signed by Nancy Waswa Principal Children Officer and counter-signed by Mary Mbugua for Assistant Director Children Services. The Report is favourable and recommends that the Applicants be allowed to adopt the child. The Report by the Guardian Ad Litem is dated 27th November 2019. Likewise it is favourable and recommends that the Applicants be allowed to adopt the child.

I have read all the pleadings and documents filed in this matter in support of the Originating Summons. I am satisfied that the law and correct procedure was followed to declare the child free for adoption. I am also satisfied that the Children's Act specifically Sections 154, 156, 157, 158, 159 and 160 of the Children's Act have been complied with. I am also satisfied that **JWM** and **SN** have given their respective consents to being appointed Legal Guardians of **JNN**.

I am persuaded that the Applicants have presented a good case to convince this court to grant adoption orders sought. I hereby allow the Originating Summons dated 18th July 2019 and issue the following orders:

1. THAT the consent of the biological parents of **BABY DJ** Alias **LM** is hereby dispensed with.
2. THAT **ANM** and **RWK** are hereby authorized to adopt **BABY DJ** Alias **LM**.
3. THAT **BABY DJ** Alias **LM** is hereby renamed **JNN**.
4. THAT **SN** of Identity Card No. [...] and **JWM** of Identity Card No. [...] are hereby appointed Legal Guardians of **JNN**.
5. THAT **MMM** is hereby discharged from being Guardian Ad Litem.

Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 8TH APRIL 2021

S. N. MUTUKU

JUDGE