



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**ADOPTION CAUSE NO. 3 OF 2020**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**BY STN AND TNM**

**AND**

**IN THE MATTER OF THE ADOPTION OF BABY DARREL (MINOR)**

**JUDGMENT**

1. The applicants crave an *adoption order*. The *ex parte* originating summons is dated 15<sup>th</sup> July 2020. It is brought under the **Children Act** and the Regulations thereunder (hereafter *the Act and Regulations*).
2. The applicants are husband and wife as per the certificate of marriage annexed marked 3B. The applicants are aged 34 and 29 respectively and have been in coverture since the year 2014. Unfortunately, their union has *not* been blessed with any offspring. They have been living with the adoptive minor since 7<sup>th</sup> February 2019.
3. The summons is supported by the joint *statement* and *affidavit* of the applicants together with a bundle of materials. They an *original* report dated 22<sup>nd</sup> January 2021 filed by Rhoda Mwikya, the Assistant County Director for Children's Services, Murang'a County; a report by the *Guardian ad Litem* filed on 29<sup>th</sup> January 2021; and, a declaration by Buckner Kenya Adoption Services dated 30<sup>th</sup> September 2020.
4. The minor is a male child born on 9<sup>th</sup> June 2018. He was abandoned the same date and found by the public near Thika Road Mall, Nairobi. The matter was reported to Kasarani Police Station under *OB [particulars withheld]*. The minor was admitted to Happy Life Children's Home and committed to the home on 17<sup>th</sup> January 2019 by order of the Nairobi Children's Court in *Protection & Care Case 494 of 2018*. The *committal order* is annexed.
5. The biological parents of the minor are thus *unknown*. I am satisfied from the materials on record that they *cannot* be traced.
6. I am also satisfied from the report by the Assistant County Director for Children's Services aforementioned; and, the original certificate dated 21<sup>st</sup> January 2019 issued by Buckner Kenya Adoption Services, a registered society under the Act, that the minor is *free* for adoption.
7. I took sworn evidence from the two applicants, the *guardian ad litem*, the representative of the adoption society and the Assistant County Director for Children's Services, Murang'a. I also keenly studied the demeanour of the child. He seemed to be healthy and has fitted in well with the proposed adoptive parents. This was reaffirmed on oath by the *guardian ad litem*.
8. Both applicants fully comprehend the *finality* and legal implications of an *adoption order*. Like I stated, they have lived with the minor for well over two years. The applicants are Kenyan citizens living on their own property. The 1<sup>st</sup> applicant is a surveyor employed by the Ministry of Lands and Physical Planning. The 2<sup>nd</sup> applicant used to be in employment but has now opened a new business. Details of the income of the 1<sup>st</sup> applicant appear in the bank statement and pay slip attached to the application.
9. Section 154 of the Act vests the High Court with power to make *adoption orders*. I find that it is in the *best interests* of the minor to be adopted by the applicants. I am satisfied that they have the emotional and financial wherewithal to support the child.
10. Upon the grant of the adoption order, the applicants shall assume all parental rights and duties. They shall treat the adopted child as their

own. The adoption order is *final* and shall be binding during the lifetime of the child; and, the adopted child shall have the right to *inherit* the property of the applicants. The applicants shall not give up the child owing to unforeseen behavior or other changes in her character.

11. In the end, I am satisfied that the legal requirements for a *local adoption* have been met. I therefore grant the following orders-

- a) That the applicants be and are hereby allowed to adopt *Baby D.*;
- b) That the name of the child shall now be *MJM. [particulars withheld]*;
- c) That the effective *date of birth* shall be recorded as 9<sup>th</sup> June 2018;
- d) That the child is presumed to be a *Kenyan Citizen*;
- e) That the Registrar General is directed to enter this adoption order in the Adoption Register;
- f) The *Guardian ad Litem* is hereby discharged. Instead, I appoint *TNW* to be the minor's *legal guardian* in the event that the applicants are incapacitated; or, unable to exercise parental obligations;
- g) That the proceedings and judgment in this cause shall be *sealed*; and, shall *not* be accessible to any person without prior orders of the court.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT MURANG'A THIS 25TH DAY OF MARCH 2021.**

**KANYI KIMONDO**

**JUDGE**

**Judgment read in chambers in the presence of-**

The applicants.

Ms. Dorcas Waichuhi & Ms. Susan Waiganjo, Court Assistants.