



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**ADOPTION CAUSE NO. 255 OF 2015**  
**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**  
**AND**  
**IN THE MATTER OF BABY S. Alias M.O.S.S**  
SOS.....1ST APPLICANT  
NESS.....2ND APPLICANT

**JUDGMENT**

1. The two Applicants herein SOS and NESS (hereafter referred to as the 1<sup>st</sup> and 2<sup>nd</sup> Applicants) have filed the Originating Summons dated 19.10.2015 seeking authority to adopt the Child S Alias MOSS. (hereafter referred to as the child).
2. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants are adults born in 1967 and 1980 respectively.
3. They are married in accordance with Maasai traditions and they profess the Protestant Faith.
4. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants reside in a three bed roomed house in Kajiado County in Kenya.
5. The 1<sup>st</sup> Applicant is an Assistant Chief with an income of Ksh.36, 000 per month while the 2<sup>nd</sup> Applicant is a business woman dealing with livestock.
6. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants have combined income of 450,000 per year and they have 250 acres of land with livestock.
7. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants are healthy and have no criminal record as attested by the production of Medical Reports and Certificate of good conduct.
8. The child was born on 13.8.2014 at Pumwani Maternity Hospital to IWK who gave him up for adoption to Kenya Children's Home Adoptions Society on 17.7.2014.
9. The biological mother of the child was counseled and affirmed she had made up her mind to offer the child for adoption. She is a single mother with four other children and she was not prepared for the pregnancy.
10. The biological mother signed the Certificate of acknowledgement and the child was admitted to Thomas Barnado House by Nairobi Children's Court vide Care and Protection Case No. 325 of 2014.
11. The Child was freed for adoption by the Kenya Children's Homes adoption Society's Case Committee sitting on 21.1.2015 vide Certificate Serial No. 1191 under **Section 159(1) (a) (i)** of the **Children Act**.
12. The following reports were filed in respect of this Adoption:
  - (i) **The Guardian Ad Litem's Report dated 17.9.2019.**
  - (ii) **The Kenya Children's Home Report dated 29.1.2016**

**(iii) The Director Children Services report dated 10.7.2019**

13. I have considered the Originating Summons dated 19.10.2015 together with the Affidavits filed therein and also Reports filed in respect to this Adoption.

14. I find that the Applicants meet the threshold for adoption of the child.

15. Finally, in deciding this matter I am obliged to adhere to **Section 4(2)** of the **Children Act 2011**, which provides:

*“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”*

16. The Originating Summons is allowed in the following terms.

**(i) THAT the Applicants be and are hereby authorized to adopt the child and to name him MOSS.**

**(ii) THAT the Child be and is hereby declared a Kenyan Citizen.**

**(iii) THAT the Registrar General be and is hereby directed to enter the Adoption in the Adopted Children Register.**

**(iv) THAT MON and LMN be and are hereby appointed Legal Guardians of the Child in case of incapacity of the Applicants before the child attains the age of the Majority.**

**(v) THAT the Guardian Ad Litem be and is hereby discharged.**

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 24<sup>TH</sup> DAY OF JANUARY 2020.**

**ASENATH ONGERI**

**JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.**