



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO.90 of 2019**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF BABY FM.**

**FNN.....1<sup>ST</sup> APPLICANT**

**VERSUS**

**JNM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The Applicants in this case FNN and JNM (hereafter referred to as the 1<sup>st</sup> and 2<sup>nd</sup> Applicants respectively) have filed the Originating Summons dated 11.7.2019 seeking authority to adopt Baby FM and to name him FMN (hereafter known as the child).
2. The Applicants are adult Kenyans born on 15.12.1968 and 24.3.1963 respectively.
3. The Applicants got married in the year 2000 and they have two biological children.
4. The first Applicant is a Nurse by profession while the 2<sup>nd</sup> Applicant is a Senior Business Analyst and their combined income is Ksh.150,000 USD per month.
5. The Applicants have attached their Certificates of good Conduct and medical reports to demonstrate their fitness to adopt the child.
6. The Child's biological mother died when the child was 10 days old due to birth related complications.
7. The 1<sup>st</sup> Applicant is the sister of the child's grandmother with whom the child has been living. The grandmother has given a consent for the adoption.
8. The motivation for the Adoption is to give the child a home.
9. The following Reports were filed in respect of the adoption:
  - i) The Guardian Ad Litem's Report dated 15.10.2019**
  - ii) The Director Children's Services report dated 1.10.2019**
  - iii) Little Angel's Services Report dated 26. 5.2017**
10. I find that this is a Kinship adoption as the 1<sup>st</sup> Applicant is the sister of the child's grandmother.
11. Lady Justice Achode **In re J N A [2018] eKLR** held that ;

*“The indefinite moratorium issued by the Kenyan cabinet on 27th November, 2014 involved inter-country and resident adoptions of Kenyan children by foreigners. It does not affect adoptions by Kenya applicants, even those living abroad. Dual citizenship in our*

country is anchored in Article 16 of the Kenyan Constitution.

*According to the Guidelines for Alternative Family Care of Children in Kenya page 153, “kinship adoption is adoption by adopters who are kin or relatives within the extended family of the child.” Kenyans living abroad and wishing to adopt a Kenyan child will adopt as Kenyans by way of domestic adoptions. This is therefore considered to be a local adoption.”*

12. The Applicants have a noble reason to adopt the child in order to give him a home and to raise him up.
13. I find that the Applicants have met the legal threshold for adoption of the child.
14. I also find that the Reports filed herein are favourable and it is for the best interest of the child that this adoption be allowed.
15. I accordingly allow Originating summons dated 1.7.2019 following terms:

**i) THAT the Applicants be and are hereby authorized to adopt Baby FM.**

**ii) THAT the Child shall henceforth be known as FMN.**

**iii) THAT JMM and GWM the grandparents of the child 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.**

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

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

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 21<sup>ST</sup> DAY OF FEBRUARY 2020.**

**ASENATH ONGERI**

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