



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO. 84 OF 2019**

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

**AND**

**IN THE MATTER OF BABY PB.**

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

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

**JUDGMENT**

1. The Applicants in the Originating Summons dated 29.5.2019, DWM and SNN (Hereafter referred to as the 1<sup>st</sup> and 2<sup>nd</sup> Applicants respectively) are seeking authority to adopt Baby PB and to name her VMW (hereafter referred to as the child).
2. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants are Adults born on 13.12.1969 and 12.12.1971 respectively.
3. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants got married on 8.6.2013 in Nairobi.
4. They have one biological child a boy HMW born on 16.3.2015.
5. The 1<sup>st</sup> Applicant is an advocate of the High Court of Kenya and a partner at [Particulars Withheld] while the 2<sup>nd</sup> Applicant is a private Public Partnership specialist currently working as an Independent Consultant with [Particulars Withheld].
6. The Applicants have attached their financial statements to demonstrate their financial capacity to adopt the child. They have also attached Police clearance certificates and Medical Reports showing they have no criminal records and they are physically and emotionally fit and health to adopt the child.
7. The child was abandoned at Kenyatta National Hospital on 10.1.2018 where the biological mother had been referred to from Kiambu Hospital after she experiences post-partum hemorrhaging.
8. The matter was reported to Kenyatta National Hospital Police Post as OB No. [.....].
9. The Nairobi County Children Officer sought placement for the child at Nest Children's home by letter dated 21.5.2018.
10. The Child was admitted at Nest Children's Home on 25.5.2018 and formally committed to the said Home by Nairobi Children's Court on 20.6.2018 vide Protection and Care case No. 308 of 2018.
11. The Police wrote a letter dated 11.10.2018 stating that the biological mother of the child could not be traced.
12. The Child was declared free for adoption vide Certificate No. [.....] issued by Change Trust Adoption Society on 22.11.2018 under **Section 159(1) (a) (i)** of the Children Act which states that:

*“Abandonment may be presumed if the child appears to have been abandoned at birth or if the person or institution having care and protection of the child has neither seen nor heard from a parent or guardian of the child for a period of at least six months.”*

13. The following Reports were filed in respect of the child:

- (i) The Guardian Ad Litem's Report dated 25.7.2019**
- (ii) The Change Trust Report dated 17.3.2019**
- (iii) The Director Children's Services report dated 16.9.2019**

14. I have considered the Affidavit filed in the Originating Summons dated 29.5.2019 together with the Reports filed herein.

15. I find that the Applicant's meet the threshold for adoption of the child and I allow the originating summons dated 29.5.2019 in the following terms:

- (i) THAT the 1<sup>st</sup> and 2<sup>nd</sup> Applicants DWM and SNN be and are hereby authorized to adopt Baby PB.**
- (ii) THAT the child shall be known as VMW.**
- (iii) THAT the date of Birth of the child shall be 1.1.2018 and place of birth Kiambu County.**
- (iv) THAT the child shall be presumed to be a Kenyan Citizen.**
- (v) THAT the Registrar General be and is hereby directed to enter this adoption order in the adopted Children Register.**
- (vi) THAT the Director Immigration be and is hereby authorized to issue the child with a Kenyan passport.**
- (vii) THAT GGN be and is hereby appointed legal guardian of the child in case of incapacity of the 1<sup>st</sup> and 2<sup>nd</sup> applicants before the child attains the age of the majority.**
- (viii) THAT the guardian Ad litem be and is hereby discharged.**

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 6<sup>TH</sup> DAY OF MARCH, 2020.**

**ASENATH ONGERI**

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