



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**ADOPTION 30 OF 2019**

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

**AND**

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

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

**J U D G M E N T**

1. What is before me is the Originating Summons dated 16<sup>th</sup> October 2019 brought under **Section 158 (1), (b), 157 and 160 and all other enabling provisions of the Children Act.**

2. It seeks orders;

1. **THAT** BMB be appointed as Guardian ad Litem of BABY TM during the hearing of these adoption proceedings.
2. **THAT** the Director of Children's Services in the Ministry of Home Affairs be directed to conduct investigating as to the suitability of the applicants to adopt BABY TM and submit a report on their findings to court.
3. **THAT** the consent of the biological parent of BABY TM be dispensed with since the child was abandoned so soon after birth.
4. **THAT** the applicants be authorized to adopt BABY TM and the child be known as TMO henceforth.
5. **THAT** the Registrar-General do make the appropriate entries in the adopted children's register in respect of TMO.
6. **THAT** the court does issue such other orders as may be necessary in the best interest of the child.
7. **THAT** costs be in the cause.

3. It is supported by the joint statement of the applicants sworn on 1<sup>st</sup> October 2019 and the annexures thereto, which demonstrate that; BABY TM an infant of male sex was born on or about 15<sup>th</sup> December 2014. According to Buckner Kenya Adoption Service He was found abandoned in a house at Mau Narok area. A neighbour called the owner of the farm who was unaware of the baby. The farm owner subsequently reported the matter to Central Police Station, Nakuru. The matter was booked in the OB and 8<sup>th</sup> January 2015 the baby was committed to Haven of Hope Baby Centre. The copies of Police Letters and the Committal Order by the Children's Court at Nakuru Children's Court are annexed. The Haven of Hope Baby Centre reported that since the baby was committed to their centre no parent or relative came to claim the child and neither had they received any information from the police department in respect of any claim. Consequently, on 22nd February 2017 the child was declared free for adoption by Buckner Kenya Adoption Services (BKAS as evidenced by copies of the Certificate of Declaration and a Report declaring the child free for adoption.

4. The applicants are Kenyan Citizens who have no criminal records as borne by their certificates of good conduct. They were born on 1973 and 1983 respectively and have been married for over eighteen (18) years since the year 2000 though they solemnized their marriage in 2016 as per the annexed Certificate of marriage. They have not been blessed with a biological child of their own but have but have been taking care of their niece MK since she was nine (9) months and was in form two 2 at the time of the application. Both run businesses with a monthly income, own property and are capable of assuming financial responsibility for the infant's medical care, education and general upkeep. They have a home with a comfortable environment, which is suitable for nurturing the child and ensuring his full development. They

are also physically and emotionally fit and healthy to parent the child. All this is supported by documents of ownership and copies of Medical particulars in verification. They each have gone through an investigation by Buckner Kenya Adoption Services and found to be fit adoptive parents as per the copy of the Assessment Report and Certificate of Acknowledgment. They have had care and control of the child since 1<sup>st</sup> May 2017 and both Buckner Kenya Adoption Services and Haven of Hope Baby Centre have not raised any objection to their application. Annexed is the copy of Care and Placement Agreement.

5. They have appointed two persons FM and SMM as the Legal Guardians of the child. Copies of their consents are annexed.

6. The guardian *ad litem* was appointed at the onset of the matters and the Director Children services filed the social inquiry report.

7. I heard oral evidence from the adoptive parents and the one of the legal guardians and the other was out of the country.

8. I read the recommendations from the Director of Children Services. The report verified and supported the information in the Originating Summons.

9. I am persuaded that the applicants will provide a suitable home and parentage for the child herein. The legal guardians are fully aware of their responsibility. I allow the Originating Summons and grant the following prayers;

**1. THAT the applicants be authorized to adopt BABY TM and the child be known as TMO henceforth.**

**2. THAT the Registrar-General do make appropriate entries in the adopted children's register in respect of TMO.**

**3. SMM and FM are appointed Legal Guardians.**

**4. The Guardian ad Litem is discharged.**

**5. Costs in the cause**

**Dated, signed and delivered via email at Nakuru this 22<sup>nd</sup> day of June, 2020.**

**Mumbua T Matheka**

**Judge**

Edna and Martin Court Assistants

Mrs. Mbeche for Obura Mbeche & Co. Advocates for applicants