



**REPUBLIC OF KENYA**

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

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**ADOPTION CAUSE NO. 87 OF 2018 (O.S)**

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

**IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY ES ALIAS SMO**

**BY**

**COM AND LAO**

**(APPLICANTS)**

**JUDGMENT**

1. The Applicants COM and LAO are in a monogamous marriage which was solemnized at the All Saints Cathedral Church in Nairobi on 13<sup>th</sup> December, 2013. They have no children of their own. They wish to adopt the female child known as Baby ES through the Originating Summons dated 3<sup>rd</sup> July, 2018.
2. From the pleadings, the court gathers that both Applicants are [particulars withheld] by profession. The male Applicant works as a Corporate Affairs Director at [particulars withheld] and the female Applicant works as a [particulars withheld]. They reside in [particulars withheld] Estate and both profess the Christian faith.
3. Records before the court indicate that the minor in this matter was found by a good Samaritan abandoned at Choices Guest House Embulbul in Kajiado County on 14<sup>th</sup> January, 2017. The matter was reported to Ngong Police Station where it was booked as OB No. 19/14/1/2017.
4. On 27<sup>th</sup> January, 2017 the child was committed to Mahali Pa Maisha Children's Home by the Children's court at Ngong Law Courts in P&C Case No. 25 of 2017. The Ngong Police Station issued a final letter dated 14<sup>th</sup> July, 2017 in which they confirmed that no one had come forward to claim the child or raised any issue regarding the child. On 31<sup>st</sup> July, 2017 the Applicants took the child into foster care with a view of adopting. A Care and Placement agreement was signed on 31<sup>st</sup> July, 2017.
5. Prior to the hearing of the adoption application, Buckner Kenya Adoption Services prepared and filed a report dated 3<sup>rd</sup> October, 2018. They had also issued a Certificate of Serial No. [...] dated 18<sup>th</sup> July, 2017 declaring the child free for adoption. The guardian ad litem CNO filed a report on 11<sup>th</sup> December, 2018 which was favorable and recommended the adoption of the child by the Applicants.
6. An officer from the Department of Children Services, Nairobi County conducted home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 5<sup>th</sup> November, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicants and that the Applicants have fulfilled all the statutory requirements.
7. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child was in court during the hearing and was jovial and appeared to have bonded well with both Applicants.
8. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 3<sup>rd</sup> July, 2018 and order as follows:

- i. The Applicants, COM and LAO be and are hereby allowed to adopt **Baby ES** who shall henceforth be known as **SMO**.
- ii. Her date of birth shall be presumed to be 12<sup>th</sup> January, 2017. She is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Nairobi.
- iii. MOO and HAA (friends to the Applicants) are hereby appointed as the joint legal guardians of the child in the event that the Applicants die, or are incapacitated by ill-health.
- iv. The Registrar General is directed to enter this order in the Adopted Children Register.
- v. The Director of Immigration is hereby authorized to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED** and **DELIVERED** in open court this **31<sup>st</sup> day of January, 2019**.

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**L. A. ACHODE**

**HIGH COURT JUDGE**