



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**ADOPTION CAUSE NUMBER 34 OF 2017**

**IN THE MATTER OF BABY WTK a.k.a. MM.....SUBJECT**

**AND**

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

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

**JUDGMENT**

The Application is brought by way of Originating Summons and is dated 22<sup>nd</sup> August, 2017. The Applicants PNN and LWK through their advocates Njeri Njagua & Company Advocates seek the following orders:

- 1. Spent.**
- 2. Spent.**
- 3. THAT the applicants be authorized to adopt the subject herein known as BABY WT K now known as MM.**
- 4. THAT upon granting prayer 3 hereof, the court be pleased to direct the Registrar-General to enter the adoption order in the Adopted Children Register.**
- 5. THAT the court be pleased to make any further orders as it may deem fit.**

The applicants PNN and LWK are husband and wife. They reside in Nakuru. They got married under the **Marriage Act, 2014** which marriage was solemnized at the Registrar's Office Nakuru on 24<sup>th</sup> June, 2015 and a certificate of marriage was issued. Prior to this marriage the applicants had spouses. PNN is a widower having married in 1978 and lived with his wife NNN until 4<sup>th</sup> December, 2003 when she passed on. The death certificate is on record. PNN has one child from the first marriage named INN. LWK's marriage went sour since she did not bear a child and the partner could not condone. The applicants do business to earn a living. PNN does matatu business while LWK owns a fruit grocery. They have never been blessed with a biological child of their own. NNN has no objections with her father adopting a male child. The applicants do not wish to live without a child and they also want to have an heir to their property.

**Baby WTK a.k.a. MM** was born on 26<sup>th</sup> March 2015 at Bushiri Health Center, Kakamega vide birth certificate number xxxx. Her biological mother MK offered out the child for adoption because she conceived with her cousin (SM) hence the child is considered a taboo in Luhya customs. Since M is a minor, her mother VKK assisted her through the offering process and gave a consent on behalf of the family. M and V were taken through the parent offering child for adoption process and affirmed that it was in the child's best interest to offer her for adoption by signing a certificate of acknowledgment on 9<sup>th</sup> November, 2015. They also swore and signed a final consent for parent offering a child for adoption on 6<sup>th</sup> May, 2015. The sub-county children officer and the chief were involved and sought a vacancy at Springs of Life Children's Home as a child in need of care and protection on 27<sup>th</sup> March 2015. On 14<sup>th</sup> May 2015 **Baby WTK a.k.a. MM** was officially committed to Springs of Life Children's Home at the Kakamega Children's Court vide protection and care case number 281/2015.

The medical information available indicates that the child's growth and development is normal and she is HIV negative. Springs of Life Children's Home has ensured that the child has received all the immunizations as per the Kenya Expanded Programme on immunization guidelines. **Baby WTK a.k.a. MM** was transferred to Kenya Children's Home on 2<sup>nd</sup> November, 2015 due to lack of space in Springs of Life home as per the transfer letter by the sub-county children officer and admission form from Kenya Children's Home available.

The minor was freed by the Kenya Children's Home Adoption Society Case Committee on its sitting of 14<sup>th</sup> December, 2016 and a freeing

certificate serial number 1316 issued pursuant to **Section 156(1) & Adoption Regulations.**

The applicants approached the Kenya Children's Home Adoption Society on 21<sup>st</sup> October, 2016 with an intention of being ratified for placement with a male child with a view of eventually adopting. They were taken through the adoption process and its implications and took the application forms which they returned duly filled on 29<sup>th</sup> December, 2016. An interview and home visit was conducted at their Free Area residence in Nakuru on 4<sup>th</sup> January, 2017 aimed at assessing the applicants' suitability to adopt or otherwise. PNN and LWK were officially approved for placement with a child by the agency's case committee on its sitting of 18<sup>th</sup> January, 2017. The applicants were thereafter placed with the minor on 31<sup>st</sup> January, 2017 after a successful bonding at the home.

On 23<sup>rd</sup> July, 2018 the Court ordered the County Children's Director in the Ministry of Labour and Social Protection, Department of Children's Services to investigate the applicants' fitness to adopt **Baby WTK a.k.a. MM.** INN was appointed *guardian ad litem* **Baby WTK a.k.a. MM.**

On 11<sup>th</sup> September, 2019 Salome W. Waithaka, a personnel from the children department conducted interviews with the applicants and on 13<sup>th</sup> September, 2018 visited the applicants at the home to further interrogate them on their fitness to adopt **Baby WTK a.k.a. MM.** Mr. Mwambi Mongare, the County Children's Coordinator filed a favourable report dated 22<sup>nd</sup> November, 2018 as to the suitability of the applicants to adopt baby **Baby WTK a.k.a. MM.**

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable persons to adopt the minor **Baby WTK a.k.a. MM** and they also are financially stable and have the means to provide and care for him.

For the above reasons, the Court hereby orders as follows:

1. **THAT the applicants be and are hereby authorized to adopt the subject herein known as BABY W T K now known as M M.**
2. **THAT the Registrar-General do make the appropriate entries in the Adopted Children's Register.**
3. **THAT costs be in the cause.**

**Dated and Signed at Nakuru this 24<sup>th</sup> day of January, 2019.**

**A. K. NDUNG'U**

**JUDGE**