



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KERICHO**

**ADOPTION CAUSE NO. 4 OF 2012**

**IN THE MATTER OF CHILDREN ACT 2001 (ACT 8 OF 2001)**

**AND**

**IN THE MATTER OF BG (CHILD)**

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

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

**JUDGMENT**

1. By their Amended Originating Summons dated 1<sup>st</sup> March 2018, the applicants, **LKL** and **JCL** seek to be authorized to adopt the male child currently identified and known as **BG**.
2. The applicants are husband and wife. They first married under Kipsigis Customary law in March 1993 before formalizing their marriage under the provisions of the Marriage Act (now repealed) at the District Commissioner’s Officer, Bomet on 21<sup>st</sup> May 2010. The 1<sup>st</sup> applicant was born in 1966 and is now 53 years old. The 2<sup>nd</sup> applicant was born in 1977 and is now aged 42 years. The 1<sup>st</sup> applicant is a businessman while the 2<sup>nd</sup> applicant is a farmer.
3. The child the subject of this application is **BG**, presumed born on 16<sup>th</sup> February 2008. He was found abandoned in Nakuru, and taken to the Nakuru Provincial General Hospital on 8<sup>th</sup> May 2009. The matter was reported at the Nakuru Police Station under OB No. [Particulars withheld]. He was released to a good Samaritan, one SK, on 11<sup>th</sup> June 2009 for temporary care, then on 12<sup>th</sup> February 2010 to Ian Castleman Orphanage, and thereafter on 16<sup>th</sup> February 2010 to the Africa Gospel Church Baby Care Centre in Ngata.
4. The child was committed to the care of the Africa Gospel Church Baby Care Centre by the Children’s Court, Nakuru, vide Protection and Care Case No. 176 of 2010. Attempts to trace his relatives proved futile as the police indicated in the letter from the Nakuru Police Station dated 25<sup>th</sup> August 2010. The child was declared free for adoption on 14<sup>th</sup> December 2010 by the Kenya Children’s Homes Adoption Society and a Freeing Certificate serial number [particulars withheld] issued in compliance with section 156 (1) of the Children Act. The child was placed with the applicants on 7<sup>th</sup> February 2011.
5. On 8<sup>th</sup> June 2018, this court appointed DKR as the Guardian *ad Litem* in respect of the child. The Director, Children Services, was directed to investigate and file a report on the fitness or otherwise of the applicants to adopt the child.
6. In a report dated 3<sup>rd</sup> December 2018, the Guardian *ad Litem* notes that the applicants are looking after the child very well, and he recommends that they be allowed to adopt him.
7. In his report dated 18<sup>th</sup> September 2018, the Children’s Officer, County Children’s Office, Bomet, notes that the applicants have bonded well with the child. He is now in class 3 at [particulars withheld] Primary School. He further notes that the applicants have a 3 ½ acre parcel of land in Bomet County. They live in a one bedroom house with an external kitchen, bathroom and pit latrine. They practice farming on the land and keep dairy cows. The Children Officer recommended that the applicants be authorized to adopt the child.
8. I have considered the application and the affidavits in support. I note that the applicants have had custody of the child for the last 8 years. It seems to have taken them rather long to follow through on the adoption process which commenced in 2012.
9. Nonetheless, having considered the documents and affidavits placed before me, I find that it is in the ‘best interests of the child for the

applicants to be allowed to adopt him. Though of modest means, they have their own home and an income from the 1<sup>st</sup> appellant's business with which they have been able to support the child.

10. I accordingly hereby authorize the applicants to adopt the child currently identified and known as **BG**. The child shall be renamed BK and his date of birth shall be 16th February 2008. The child is declared a citizen of Kenya.

11. I direct the Registrar General to make the appropriate entry in the Adopted Children's Register and the Registrar of Births to issue a birth certificate in respect of the child.

12. I appoint the 1<sup>st</sup> applicant's brother, Gilbert Langat, to be the legal guardian of the child should any misfortune befall the applicants.

13. The Guardian *ad Litem* is hereby discharged.

14. Orders accordingly.

**Dated Delivered and Signed at Kericho this 27<sup>th</sup> day of February 2019**

**MUMBI NGUGI**

**JUDGE**