



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**ADOPTION CAUSE NO. 8 OF 2014**

**IN THE MATTER OF BABY L**

**AND ON THE APPLICATION FOR AN ADOPTION ORDER BY**

**1. A M M**

**2. MKM.....APPLICANTS**

**RULING**

This application is brought by way of Originating Summons dated 9<sup>th</sup> October, 2013. The Applicants **A M M** and **MKM** through their advocates Kalinga & Co Advocates seek the following orders:

- 1. THAT JOHN KIAMBA of c/o Post Office Box Number 4 Wamunyu in the Republic of Kenya be appointed Guardian ad Litem.**
- 2. THAT the Director-Children's Department, Office of the Vice President, Ministry of Home Affairs investigates the applicants' fitness to adopt and files a report.**
- 3. THAT PMM be appointed Legal Guardian of the child.**
- 4. THAT the Applicant be authorized to adopt the child L to be known as JM.**
- 5. THAT the court be pleased to make any further orders it deems necessary.**

1. In the preliminary stage, prayer 1 and 2 were granted by the court.

2. The Applicants **A M M AND MKM** are adults born in 1967 and 1969 respectively and residents of Katangi, Yatta Sub-County. Alfonce is a teacher whereas Margaret is a business lady. They have been married to each other since December 1992 and received the infant under their joint custody as from 10<sup>th</sup> December, 2009 and fostered her since then.

3. **PMM** swore an affidavit dated 9<sup>th</sup> October 2013 to confirm consent to act as Legal Guardian and that he has no objection to the Applicants adopting Baby L.

4. Baby **L** was born at Pumwani Maternity Hospital to biological parents BNN and JN and offered for adoption by them. She was delivered to Kenya Children's Homes Adoption Society on 21.3.2009 whereupon she was committed to the custody and care of the said home by the Senior Resident Magistrate at Nairobi Children's Court via P& C No. 351 of 2009 on 14<sup>th</sup> August, 2009.

5. On 26<sup>th</sup> August, 2009, **Baby L** was declared free for adoption vide certificate issued on 26<sup>th</sup> August, 2009 and was placed in the care of the applicants from 10.12.2009.

6. On 22<sup>nd</sup> January, 2014 this Court directed the Director of Children Department, Office of the Vice President, Ministry of Home Affairs to investigate the applicants' fitness to adopt the baby and file a report.

7. Nathan M. Kyule is the Sub-County Children's Officer, Yatta. He conducted a Social Inquiry on the Applicants by visiting and

interrogating them at their home on 27<sup>th</sup> May, 2016. It was observed that the Applicants have not been able to get their own biological child. They have never been separated ever since they married and have taken care of **Baby L** and bonded well with the said minor who seemed to have bonded well with them. Hence this adoption would be in her best interests. His conclusion is that the applicants have demonstrated ability to maintain baby **L**. On 9<sup>th</sup> May, 2017, Nathan M. Kyule, the Sub-County Children's Officer, Yatta filed a favourable report as to the suitability of the Applicant to adopt baby **L**.

8. On 9<sup>th</sup> May, 2017, **Peter Ndotono Njuguna** appeared in court to recommend the applicant's application and to have the report dated 7.5.14 confirming the suitability of the applicant to be adopted in the proceedings as well as informing court that this is the second adoption application by the applicants as they had made a previous one vide Machakos Adoption Cause 191 of 2008. **PMM** appeared before me on the same date to confirm and rely on the contents of his affidavit and willingness to take up his duties as well as recommend the applicants to adopt baby **L**. The applicants also appeared before me on the said date and relied on their affidavits to support the application and confirmed their readiness to care for the minor.

9. Constance Muasa, the Yatta Sub-County Children's Officer appeared before me on 7.11.18 to adopt the report that was prepared by her colleague Nathan Kyule and dated 30.12.16

10. This court is satisfied that the Applicants are suitable persons to adopt Baby **L** and that they are financially stable and have the means to provide and care for her.

For the above reasons, the Court orders as follows;

1. **THAT the Applicants AMM AND MKM be are hereby authorized to adopt Baby L to be known as JM.**
2. **THAT PMM be and is hereby appointed Legal Guardian of the minor.**
3. **THAT the Registrar-General do make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this order.**
4. **THAT the guardian Ad litem is hereby discharged.**

Dated and delivered at Machakos this 25<sup>th</sup> day of April, 2019.

**D.K. KEMEI**

**JUDGE**