



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**  
**ADOPTION CAUSE NO. 22 OF 2017**  
**IN THE MATTER OF BABY AO**  
**ON APPLICATION FOR AN ADOPTION ORDER**

**RULING**

1. The adoption order was sought vide originating Summons under Sections 154, 156, 157, 158, 160, 162 and 163 of the Children Act No 8 of 2001 and is dated 27<sup>th</sup> September, 2017 and amended on 26<sup>th</sup> February 2018. The Applicants **DNM and CMK** sought the following orders:

1. **THAT** the requirements of Section 158(4) (a) of the Children's Act be waived as provided for by Section 159(I) of the Act.
2. **THAT** **TMK** in the said Republic be appointed Guardian ad Litem in this case.
3. **THAT** the Applicants be authorized to adopt baby **AO** and the baby be known as **AMN**.
4. **THAT** **MM** be appointed Legal Guardian of the child.
5. **THAT** the Director of Children's Department investigates the case and file a report.
6. **THAT** it is directed that the Registrar-General shall make in the adopted Children's Register an entry recording the adoption in accordance with the particulars set out in the Schedule attached hereto.

2. In the preliminary stage, prayer 1, 2 and 5 were granted by the court.

3. According to a report filed in court by Kenya Childrens Homes, the Applicants **are aged** 40 and 39 years respectively. They reside in Machakos. Dominic is a student whereas Christine is a teacher. They held a customary marriage that was officiated on 11<sup>th</sup> March, 2015 and have no biological children of their own. The minor was born on 5<sup>th</sup> January, 2014 at Nakuru Provincial Hospital and his mother, Lydia Akinyi indicated that she wanted to give up the minor for adoption but did not give consent as required by law. The matter was reported at Nakuru Police Station via OB/[xxxx]. The minor was referred to the African Gospel Church baby Centre for care and protection and admitted on 7<sup>th</sup> January, 2014. She was committed to the care of AGC Baby Centre through the Childrens Court at Molo after committal issued vide P& C No. 11 of 2015 on 14<sup>th</sup> January, 2015.

4. On 22<sup>nd</sup> April, 2015, the minor was declared free for adoption by the Kenya Childrens Homes Adoption Society's Case Committee Sitting on 22<sup>nd</sup> April, 2015 vide certificate number [xxxx] issued on the same day and was placed in the care of the applicants from 8.9.2015 for mandatory bonding.

5. According to the applicants' affidavit dated 27<sup>th</sup> September, 2017, they had never been convicted of a criminal offence and they sought to adopt the minor.

6. **MM** swore an affidavit dated 27<sup>th</sup> September, 2017 to confirm consent to act as Legal Guardian while **TMK** vide affidavit dated 26<sup>th</sup> February, 2018 gave consent to act as guardian ad litem of the minor.

7. **BABY AO** was born on 5<sup>th</sup> January, 2014 in Nakuru to **LA** vide birth entry Serial Number BH [xxxx] and on 12<sup>th</sup> April, 2018 this Court directed the Director of Children Services to conduct investigations as to the suitability of the Applicants to adopt **BABY AO** and submit a report and findings to Court.

8. Francis Njagi Kariuki is the Sub-County Children's Officer, Masinga. He conducted a Social Inquiry on the Applicants by interrogating

them and the minor on the 4<sup>th</sup> May 2018. It was observed that applicants are husband and wife and have been residing with the minor who seemed to have bonded well with the applicants and is well provided for in terms of clothing and toys. The applicants reside in a self-contained rented and well-furnished house. The applicants felt that they are in a position to take care of BABY AO and were willing to take on the responsibility; his conclusion is that the applicants are well suited to adopt BABY AO.

9. The said Sub-County Children's Officer, Masinga filed a favourable report dated 8.5.2018 as to the suitability of the Applicants to adopt to BABY AO. The said officer appeared before me on 21.1.2019 to recommended applicants' application and sought to have the report dated 8.5.2018 in respect of a home visit that he undertook confirming the suitability of the applicant to be adopted in the instant proceedings.

10. On 7.11.18, Peter Njuguna Ndotono appeared in court to recommend the applicants' application and to confirm the suitability of the applicants to adopt the minor as well as adopt the report dated 21.3.2017. **MMM appeared before me on 21.1.19** to confirm and rely on the contents of his affidavits and willingness to take up his duties as a legal guardian of the minor as well as recommend the applicants to adopt BABY AO. The applicants also appeared before me on the same day and relied on their affidavits to support the application and indicated their willingness to adopt and cater for the needs of the minor.

11. This court is satisfied that the Applicants are suitable persons to adopt BABY AO and that they are financially stable and have the means to provide and care for him. I also find that it is in the best interests of the child to allow the application.

For the above reasons, the Court orders as follows;

1. **THAT the Applicants be and are hereby authorized to adopt BABY AO and the baby be known as AMN.**
2. **THAT MMM 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.**

**It is so ordered.**

**Dated, Signed and delivered at Machakos this 18<sup>th</sup> day of June, 2019.**

**D.K. KEMEI**

**JUDGE**