



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 162 OF 2018 (OS)**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY JI**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**BY**

**JMN**

**EWJ.....APPLICANTS**

**JUDGMENT**

1. The applicants are a Kenyan couple aged 57 and 55, respectively. The 1<sup>st</sup> applicant is a preacher at [particulars withheld] Churches of God while the 2<sup>nd</sup> Applicant is a property manager. They married under Kikuyu customary law in 1984. On 23<sup>rd</sup> November 2004 they solemnized their marriage. They have no child of their own. On 9<sup>th</sup> November 2018 they filed the originating summons dated 10<sup>th</sup> April 2018 seeking to adopt baby JI.

2. Baby JI is presumed to have been born on 6<sup>th</sup> March 2012. She was found stranded at Kiambiu slums at around 9.30pm on 6<sup>th</sup> March 2014 by a volunteer social worker, JN. She was approximately 2 years. The matter was reported to Buruburu Police Station vide O.B number xx/x/x/xxxx. The BuruBuru Police Station referred the baby to Imani Children Home for care and protection. The child was committed to the Home as a child in need of care and protection in case number 65 of 2015 by the Nairobi Children's Court. Buruburu police confirmed in their final letter that no one had shown interest or claimed the child. On 22<sup>nd</sup> February 2017, the child was declared free for adoption under **section 156(1)** of the **Children's Act** by the case Committee of Buckner Adoption Society vide certificate number 0192 and placed with the applicant on 21<sup>st</sup> May 2017 for bonding.

3. On 14<sup>th</sup> February 2019 the court appointed GVC as the guardian *ad litem* and ordered her and the Director of Children Services to conduct a social inquiry into the suitability of the applicants to adopt the child and to each file a report within 45 days. The reports were filed, each recommending the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat her as if she was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

- a) the applicants JMN and EWJ are hereby allowed to adopt J.I;
- b) baby J.I. shall henceforth be known as JWM;

c) the child's date of birth shall be 6<sup>th</sup> March 2012, and shall be presumed Kenyan having been found abandoned at Kiambiu slums within Buruburu in Nairobi in Kenya;

d) GMK and MWM are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;

e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

f) The guardian *ad litem* is hereby discharged.

**DATED and DELIVERED at NAIROBI this 29<sup>th</sup> day of JULY 2019.**

**A.O. MUCHELULE**

**JUDGE**