



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO. 61 OF 2019(OS)**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF CHILD S.M.**  
**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

**HON. JNM.....1<sup>ST</sup> APPLICANT**

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

**JUDGMENT**

1. The applicants Hon. JNM and JMM are a Kenyan couple, aged 65 and 40, respectively. The 1<sup>st</sup> applicant is an entrepreneur and a politician while the 2<sup>nd</sup> applicant is a business lady. The applicants were married under customary law in 2007. On 7<sup>th</sup> January 2015 they formalised the marriage in the Republic of Seychelles. They filed the originating summons dated 26<sup>th</sup> April 2019 seeking to adopt child S.M.
2. Child SM was born on 5<sup>th</sup> September 2003 at Thika vide birth certificate No. [Particulars Withheld]. She is currently 15 years old. Since her birth the child has been in the custody of her mother (the 2<sup>nd</sup> applicant) who has raised her as a single mother until her marriage to the 1<sup>st</sup> applicant. The two got married and moved in to live together as a family including child SM. The 2<sup>nd</sup> applicant affirms that from the onset of her relationship with the 1<sup>st</sup> applicant, child SM they have bonded well and she identifies him as her father. The 1<sup>st</sup> applicant has been providing financial and social support to all his children equally and it is felt that the child will have a better chance in life through the adoption.
3. The 2<sup>nd</sup> applicant signed the consent order on 16<sup>th</sup> January 2019. On 1<sup>st</sup> April 2019 the child stated that she understood the adoption process and the implications after it was explained to her by the Social Worker. She consented to her being adopted. Her biological father was not traced for consent.
4. On 3<sup>rd</sup> April 2019 the Little Angles Network declared the child free for adoption vide certificate No. [Particulars Withheld].
5. On 23<sup>rd</sup> May 2019 the court appointed MKK as the guardian *ad litem* and ordered her and the Director of Children Services to carry out a social inquiry to determine whether the applicants were suitable to adopt the child, and to file the respective reports within 45 days. The two 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.
6. 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.

7. 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 JNM and JMM are hereby allowed to adopt child SM;
- b) child SM shall henceforth be known as SMM;
- c) ENM is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;
- d) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
- e) 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**