



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 39 OF 2019(OS)**

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

**AND**

**IN THE MATTER OF IMS (MINOR).**

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

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

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

**JUDGMENT**

1. The applicants are a couple aged 26 and 44, respectively. The 1<sup>st</sup> applicant is an engineer with [Particulars Withheld] Kenya and is Israel national while the 2<sup>nd</sup> applicant is a Kenyan national who does business. The parties solemnized their marriage on 2<sup>nd</sup> August 2018 under the **Marriage Act**. On 15<sup>th</sup> January 2019 the applicants filed this originating summons seeking to jointly adopt the minor IMS.

2. The minor IMS was born on 14<sup>th</sup> June 2012 to the 1<sup>st</sup> applicant. The father of the child disappeared and has not been seen since. The 1<sup>st</sup> applicant subsequently got married to the 2<sup>nd</sup> applicant who assumed full responsibility of the child. The child was declared free for adoption by Kenya Children's Home Adoption Society on 23<sup>rd</sup> January 2019 vide certificate of freeing serial number.

3. On 18<sup>th</sup> July 2019 the court appointed JNS as the guardian *ad litem* and ordered him and the Director of Children Services within 45 days to prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed, both 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 was happy with the applicants.

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 him as if he 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.

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 HKS and AE are hereby allowed to adopt the minor, IMS.;
- b) the Minor shall henceforth be known as IA;
- c) the child is hereby presumed to be Kenyan by birth having been born in Karen in Kenya to a Kenyan national;
- d) DSN is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he 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 28<sup>TH</sup> NOVEMBER 2019**

**A.O. MUCHELULE**

**JUDGE**