



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO. 77 OF 2019 (O.S.)**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY JS**

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

**BY**

ROO.....1<sup>ST</sup> APPLICANT

MKM.....2<sup>ND</sup> APPLICANT

**JUDGMENT**

1. The applicants ROO and MKM are Kenyan nationals who got married on 6<sup>th</sup> June 2015 under the **Marriage Act, 2014**. The 1<sup>st</sup> applicant is the Chief Executive Officer with the [Particulars Withheld] Council and the 2<sup>nd</sup> applicant is a master's student at the [Particulars Withheld] University. Their marriage has one child. They filed this originating summons dated 14<sup>th</sup> May 2019 seeking to adopt Baby JS.
2. Baby JS was presumed to have been born on 14<sup>th</sup> August 2017. He was on 21<sup>st</sup> August 2017 found abandoned within Githurai in Nairobi by a good samaritan who took him to Githurai Kimbo Police Station. The matter was recorded under OB No. [xxxx]. The baby was admitted to New Life Home Trust on 22<sup>nd</sup> August 2017. On 19<sup>th</sup> September 2018 he was formally committed to the care of the Home by the Children Court at Nairobi in Care and Protection Cause No 519 of 2018. The baby was never claimed by his parents or relatives, and police efforts to trace them did not bear any fruits. On 23<sup>rd</sup> November 2018 Buckner Kenya Adoption Services declared the child free for adoption and issued Certificate No. [xxxx]. On 30<sup>th</sup> November 2018 the baby was handed over to the applicants for foster care. He has been with them since then.
3. On 7<sup>th</sup> June 2018 the court appointed NN as guardian *ad litem* and ordered her and the Director of Children Services to separately inquire into the suitability of the applicants to adopt the child and to file report within 45 days. Each filed a report recommending the applicants to be allowed to adopt the child. They 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 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. This court dispenses with the consent of the child's parents because he was found abandoned.
5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act, 2001** have been met, the following orders shall issue:-

a) the applicants ROO and MKM are hereby allowed to adopt baby JS.;

b) baby JS shall henceforth be known as ISR;

c) the child's date of birth shall be 14<sup>th</sup> August 2017, and shall be presumed Kenyan having been found abandoned at Githurai in Nairobi in Kenya;

d) MLO and COO are hereby appointed to be the child's legal guardians in the event of the 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**