



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO 9 OF 2014**

**AND**

**IN THE MATTER OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF BABY J A**

**F K M.....1<sup>ST</sup> APPLICANT**

**R N K.....2<sup>ND</sup> APPLICANT**

**RULING OF THE COURT**

1. By an Originating Summons dated 23/08/2013 the Applicants herein **F K M** and **R N K** sought for an order to adopt baby **J** whom they sought to rename her as **C N K**. The Applicants duly complied with the provisions of Section 158 and 159 of the Children's Act 2001.

2. The Applicants in compliance with the provisions of the children Act 2001 duly secured one **C M K** who agreed to be appointed as Guardian Ad Litem and they further secured one **S M M** to be appointed as the legal guardian of the child sought to be adopted.

3. The Applicants herein are Kenyan adult citizens who have been married to each other since August, 1995 under the African Christian Marriage and Divorce Act. They are residents of Kitui Town within Kitui County in the Republic of Kenya and in their originating summons they had sought for the following prayers:-

***(i) That the requirements of Section 158(4) (a) of the children's Act be waived as provided for Section 159(1) of the Act.***

***(ii) That C M K in the said Republic be appointed Guardian ad litem in this case.***

***(iii) That the Director – children's Department, Office of the Vice President, Ministry of Home affairs investigates the Applicant's fitness to adopt and files a report.***

***(iv) That S M M in the said Republic be appointed the Legal Guardian of the said child.***

***(v) That the Applicants be authorized to adopt baby J and the baby be known as C N K.***

4. Prayer (i) of the said Originating Summons was granted during the hearing held on 1/03/2018, after an examination by the Court of the guardian *ad litem*, as was prayer (ii). The Court during the said hearing admitted as evidence a declaration report by Kenya Children's Homes Adoption Society Report dated 7<sup>th</sup> May, 2014 and filed in court on 12<sup>th</sup> May, 2014, the report prepared by Philip Nzenge the Kitui County Children Co-ordinator dated 7/11/2016 and filed in court on 6/04/2017 together with a report by **C M K** the Guardian Ad litem were also adopted by the Court as evidence during the said hearings.

5. **Baby J A** is a female child who was born on 28<sup>th</sup> May, 2006 at Kenyatta National Hospital and abandoned by the mother. She was placed at St. Thomas Barbados Children Home.

6. The Applicants approached the Kenya Children's Home Adoption Society on 6<sup>th</sup> November, 2006 for ratification for placement with a female child with a view to eventual adoption. The Applicants were approved to be suitable adoptive parents and placed with **Baby J A** 5<sup>th</sup> February, 2007.

7. The reports filed in Court confirm that the Applicants are mature and responsible, and have bonded well with **Baby J A** and all of them recommend the adoption. Having evaluated the facts of this adoption application, I note that it is seeking a local adoption and that the Applicants are joint married applicants who are at least 25 years of age and under the age of 65 years, and who wish to adopt a female child. They have therefore met the requirement set under Section 158 (1), (2) and (3) of the Children Act.

8. This court is also satisfied that the Applicants are qualified and able to take care of the child. The home visits by the guardian *ad litem*, the Adoption Society and the Children Officer established that the Applicants have the financial capability to provide for the upkeep and education of the child. The reports filed in Court pursuant to these visits also do recommend the Applicants' adoption of Baby J A. Lastly, I observed the Applicants with Baby Judith in court, and it was evident that they had bonded well and that the said child is well taken care of.

9. This Court therefore forms the opinion that it would be in the best interest of **Baby J A** to be adopted by the Applicants. Consequently, the Applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child, and shall treat the adopted child as if she was born to them. The Applicants have also been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child, and that the child shall have the right to maintenance and to inherit their property. The adoption order once made is absolute and irreversible, and the Applicants cannot give up the child owing to any subsequent unforeseen condition or other changes in the child.

10. I accordingly allow the application for adoption and order as follows:-

*(i) F K M and R N K are hereby allowed to adopt **Baby J A**.*

*(ii) The child shall henceforth be known as **C N K**.*

*(iii) S M M shall be the legal Guardian of the child should such eventuality arise.*

*(iv) As the child was born in Kenyan and abandoned, she is hereby declared a Kenyan citizen by birth.*

*(v) The Registrar General is directed to enter this adoption order in the Children's Adoption Register.*

*(vi) The guardian Ad Litem is hereby discharged.*

It is so ordered.

Dated, signed and delivered at Machakos this **9<sup>th</sup> day of March, 2018.**

**D.K. KEMEI**

**JUDGE**

**In the presence of:-**

Priscillah for Kalinga for the Applicants

Kituva - Court Clerk