



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 127 OF 2017 (O.S)**

**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**

**IN THE MATTER OF ADOPTION OF BABY M W M**

**BY**

**CMW AND E N M (APPLICANTS)**

**JUDGMENT**

1. The Applicants C M W and E N M are in a monogamous marriage which was solemnized at Kiambu on 16<sup>th</sup> February, 2003. They have no child of their own. They wish to adopt the child known as Baby M W M, through the Originating Summons dated 5<sup>th</sup> September, 2017. From the pleadings the court gathers that C M W is a mason, while E N M is a domestic worker and a peasant farmer. They reside in [particulars withheld] in Machakos and both profess Christian faith.
2. Records indicate that the minor in this matter was reportedly abandoned at Thika Level Five Hospital nursery on 15<sup>th</sup> May, 2015. The matter was reported at Thika Police Station where it was booked via OB No. [particulars withheld].
3. On 15<sup>th</sup> July, 2015 the child was committed to New Life Children's Home by the Thika Children's court vide P&C Case No.306 of 2015. A letter dated 13<sup>th</sup> July, 2016 indicated that investigation to trace the mother as well as the next of kin whom the mother had given as C M were fruitless. Any assistance towards the child's best interest was recommended.
4. Prior to the hearing of the adoption application, Kenyans to Kenyans Peace Initiative Adoption Society (KKPI) prepared and filed a report in court. Through certificate number 532 the child was freed for adoption on 27<sup>th</sup> July, 2016. On 31<sup>st</sup> March, 2017 the child was placed with the Applicants for foster care through an agreement dated 31<sup>st</sup> March, 2017. The guardian ad litem O N filed a report which was favourable and recommended the adoption of the child by the Applicants.
5. An officer from the Director of Children Services made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. She filed a report on 14<sup>th</sup> June, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants as opposed to living all his life in an institution as an abandoned child.
6. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was healthy and rumbustious. He clearly seemed to trust the Applicants and regard them as his parents. The Applicants' family members are said to be aware of the proposed adoption and support it.
7. I note that this is a local adoption and the Applicants, in my opinion have fulfilled the requirements for local adoption under the Children Act, 2001. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter.
8. Secondly, the Applicants meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought.
9. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, the court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Reasons wherefore I allow the prayers sought in the Originating Summons dated 5<sup>th</sup> September, 2017 and order as follows:

- i. The Applicants, C M W and E N M are hereby allowed to adopt **Baby M W M** who shall henceforth be known as **F M**.

ii. His date of birth shall be presumed to be 15<sup>th</sup> May, 2015. He is presumed to have been born in Kenya in accordance with **Article 14(4)** of the **Constitution**, and the place of birth shall be Thika.

iii. M K N and M M (Parents to the female Applicant) are hereby appointed legal guardians of the child in the event that the Applicants die, or are incapacitated by ill-health.

iv. The Registrar General is directed to enter this order in the Adoption Register.

v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

vi. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED** and **DELIVERED** in open court this **31<sup>st</sup>** day of **July** 2018.

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**L.A ACHODE**

**JUDGE**