



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO. 285 OF 2015 (O.S)**

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

**IN THE MATTER OF ADOPTION OF BABY M.A.K.A E M M**

**BY**

**M M M AND W A O (APPLICANTS)**

**JUDGMENT**

1. The Applicants M M M and W A O are in a monogamous marriage which was solemnized at the Registrar's Office Nairobi County on 17<sup>th</sup> December, 2014. They have no child of their own. They wish to adopt the child known as Baby M, through the Originating Summons dated 24<sup>th</sup> November, 2015. From the pleadings the court gathers that the male Applicant is a [particulars withheld] while the female Applicant is self-employed. They reside in Kayole and both profess the Christian faith.

2. Records indicate that the minor in this matter was abandoned by an unknown person at City Cabanas bus stage. The matter was reported at Embakasi Police Station where it was booked via OB No. 17/02/03/2014.

3. On 20<sup>th</sup> August, 2014 the child was committed to Thomas Barnado House by the Nairobi Children's court vide P&C Case No. 224/2014. A letter dated 30<sup>th</sup> October, 2014 from Embakasi Police Station indicates that the biological parents of the child were not traced, nor did anyone come forward to claim the child. On 23<sup>rd</sup> December, 2014 the Applicants took him into foster care with a view of adopting. A foster care agreement was signed on 23<sup>rd</sup> December, 2014.

4. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report dated 18<sup>th</sup> April, 2016. They had also issued a certificate No. 1180 dated 12<sup>th</sup> November, 2014 declaring the child free for adoption. The guardian ad litem J W K filed a report on 15<sup>th</sup> March, 2017 which was favourable and recommended the adoption of the child by the Applicants.

5. An officer from the office of 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 dated 8<sup>th</sup> March, 2018 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants and that the Applicants have met all the requirements in the statute.

6. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child was in court during the hearing. The Applicants' family members are said to be aware of the proposed adoption and support it.

7. From the foregoing, this court has formed the opinion that it is 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 24<sup>th</sup> November, 2015 and order as follows:

- i. The Applicants, M M M and W A O are hereby allowed to adopt **Baby M** who shall henceforth be known as **E M M**.
- ii. His date of birth shall be presumed to be 10<sup>th</sup> December, 2013. 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 Nairobi.
- iii. J M P and F S M (Brother-in-law and sister to the male 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 26<sup>th</sup> day of July 2018**

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**L.A ACHODE**

**JUDGE**