



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 60 OF 2016 (O.S)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY W M**

**BY**

**J W K AND J M W (APPLICANTS)**

**JUDGMENT**

1. The Applicants J K and J M W are in a monogamous marriage which was solemnized at Limuru on 11<sup>th</sup> October, 1997. They have no child of their own. They wish to adopt the child known as Baby W M, through the Originating Summons dated 30<sup>th</sup> December, 2015. From the pleadings the court gathers that both J W K and J M W are farmers. They reside in Limuru and are both Christians.
2. Records indicate that the minor in this matter was reportedly abandoned at Huruma Nursing Home on 2<sup>nd</sup> October, 2007. The matter was reported at Huruma Police Post where it was booked via OB No. XXX. The child was referred to St. Veronica Rescue Centre on 30<sup>th</sup> November, 2007.
3. On 18<sup>th</sup> June, 2010 the child was committed to Thomas Barnado House by the Nairobi Children's court vide P&C Case No. *[Particulars Withheld]*. A letter dated 11<sup>th</sup> February, 2010 from Huruma Police Post indicates that the biological parents of the child were not traced, nor did anyone come forward to claim the child.
4. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society prepared and filed a report in court. They also issued a certificate No. [particulars withheld] dated 14<sup>th</sup> August, 2012 declaring the child free for adoption. The guardian ad litem D M K filed a report which was favourable and recommended the adoption of the child by the Applicants.
5. The Director of Children Services has also made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. He filed a report dated 21<sup>st</sup> February, 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 jovial and clearly seemed to trust the Applicants. He regarded them as his parents. The Applicants' family members are aware of the proposed adoption and support it.
7. It is important to note that, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

***“A child's best interests are of paramount importance in every matter concerning the child.”***

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

8. 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.
9. 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.

**10.** 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 30<sup>th</sup> December, 2015 and orders as follows:

- i. The Applicants, J W K and J M W are hereby allowed to adopt **Baby W M** who shall henceforth be known as **S K W**.
- ii. His date of birth shall be presumed to be 2<sup>nd</sup> October, 2007. 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 M (Brother to the Female Applicant), is hereby appointed legal guardian of the child in the event that the Applicants die or is 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**