



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 19 OF 2017**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF THE ADOPTION OF**

**BABY JJ alias JMG alias JJ alias**

**J I.....MINOR**

**BY**

**C G M.....1<sup>ST</sup> APPLICANT**

**M N N.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

The Applicants, CGM and MNN sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby JJ (hereinafter the child) whose name they want changed to JJ alias JMG alias JJ alia JI. The Applicants are 62 and 51 years old respectively, married and have not been blessed with children of own thus the wish to adopt the child. The Applicants filed financial, health and clearance records that confirm that they will cater for the child's social growth and development.

The child in this matter was presumably born on 14<sup>th</sup> June, 2011. He was found abandoned near a railway line along Mukuru kwa Njenga. He also appeared sickly and malnourished. The matter was reported at Mukuru Police Station vide OB No. [Particulars Withheld]. December, 2012 the child was taken to Imani children home for care and protection. on 19<sup>th</sup> April, 2013 he was committed to the care of Imani children's home vide care and protection case number 99 of 2013 in accordance with **Section 119 of the Children Act 2001** vide the Children's Court.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption. He has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Mukuru Police post, no one has come forward to claim the child. Buckner Adoptive Services issued a certificate declaring the child free for adoption pursuant to **Section 156(1) of the Children Act**. The said freeing certificate is Serial No. xxxx and the same is dated 5<sup>th</sup> August, 2015 filed their report on 3<sup>rd</sup> May, 2017 and recommended the adoption.

In an amended application dated 10<sup>th</sup> July, 2018 the Applicants sought orders that SMM be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to submit a report on the applicants' fitness to adopt the infant. On 4<sup>th</sup> May, 2017 this Court issued an order appointing SMM as the child's guardian *ad litem*, and further directing that she and the Director of Children's Services file their respective reports in court within 60 days.

The guardian *ad litem* filed a report on 14<sup>th</sup> August, 2017 which favoured the proposed adoption of the child by the Applicants. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Director of Children's Services and filed on 3<sup>rd</sup> May, 2017. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicant to adopt the child.

This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to **Section 159(1) (a) of the Children Act, 2001** since the child was abandoned at birth. This Court is satisfied that the Applicant is qualified and able to take care of the child. The home visit by the guardian *ad litem* confirms that the Applicant is indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. They have no criminal record and are of good health. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child considers the Applicants her parents.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicants' application. The Applicants, CGM and MNN are hereby allowed to adopt Baby J J alias JMG alias JJ alias J I Henceforth, the child shall be known as JMG his date of birth shall be 14<sup>th</sup> June, 2011. He is presumed to be a citizen of Kenya by birth. MN is hereby appointed as the legal guardian of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged.

It is so ordered.

**DELIVERED DATED & SIGNED IN OPEN COURT ON 20<sup>TH</sup> DAY OF DECEMBER 2018.**

**M.W.MUIGAI**

**JUDGE FAMILY DIVISION –HIGH COURT**