



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 80 OF 2017**

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

**AND**

**IN THE MATTER OF THE ADOPTION OF**

**BABY JW.....MINOR**

**BY**

**JMM.....1<sup>ST</sup> APPLICANT**

**RNN.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

The Applicants, JMM and RNN sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby JW (hereinafter the child) whose name they want changed to JMM. The Applicants are 40 and 49 years old respectively, married and have not been blessed with children of own save for the 1<sup>st</sup> applicant's child from his previous marriage 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 10<sup>th</sup> June 2009. The mother abandoned the baby outside the gate of Mr. and Mrs. JO in Parkroad and her whereabouts are since then unknown. The matter was reported at Pangani Police Station vide OB No. [xxxx]. The child was committed to Happy life Children's Home on 2<sup>nd</sup> August 2010 as a child in need of Care and Protection Case No. 227 of 2010 in accordance with Section 119 of the Children Act 2001 vide the Children's Court in Nairobi.

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 Pangani Police Station, no one has come forward to claim the child. KKPI Adoption Society 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 29<sup>th</sup> February 2012 **and** filed their report on 27<sup>th</sup> September 2017 and recommended the adoption.

In an application filed on 25<sup>th</sup> May 2017 the Applicants sought orders that PL 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 6<sup>th</sup> October 2017 this Court issued an order appointing PL 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 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 30<sup>th</sup> April 2018. 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, JMM and RNN are hereby allowed to adopt Baby JW. Henceforth, the child shall be known as JMM and her date of birth shall be 10<sup>th</sup> June 2009. He is presumed to be a citizen of Kenya by birth. TK and JN the applicants' pastor and friend respectively are hereby appointed as the legal guardians 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**