



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 193 OF 2015 (OS)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY L ALIAS L W**

**BY**

**V N M (APPLICANT)**

**JUDGMENT**

1. The Applicant V N M is a Kenyan citizen. She is single and has no child of her own. She wishes to adopt the child known as Baby L Alias L W a minor of the female sex, through the Originating Summons dated 14<sup>th</sup> March, 2016. The Applicant indicates that she is a Civil Servant working at the *particulars withheld*. She professes the Christian faith and resides in Upper Hill, Nairobi.
2. Records indicate that the child who is the subject of this adoption proceedings was born on 20<sup>th</sup> May, 2013. She was brought to Mama Lucy Kibaki Hospital, Embakasi by a police officer based at Mwiki Police Station, on 10<sup>th</sup> June, 2013 as an abandoned baby. The matter recorded at Mwiki Police Station vide OB No. 08/10/06/2013.
3. The child was admitted at Mama Lucy Kibaki for safety and medical check-up and was discharged on 11<sup>th</sup> July 2013. She was admitted at the Hope House Babies Home. She officially committed to the same Home on 5<sup>th</sup> November, 2014 by the Senior Resident Magistrate Children's Court, Nairobi vide P&C No. 306 of 2014. A letter dated 15<sup>th</sup> July, 2014 from the Mwiki Police Station confirmed that efforts to trace the relatives of the child had yielded no fruits.
4. The child was declared free for adoption by Change Trust Adoption Society on 26<sup>th</sup> November, 2014 under Section 156 of the Children Act 2001 as confirmed by certificate serial No. 001562. She was released into the custody of the Applicant for mandatory foster care pending adoption on 2<sup>nd</sup> April, 2015 upon her signing a Foster Care Agreement of even date. Since then she has been in the continuous custody and care of the Applicant.
5. Prior to the hearing of the adoption application, Little Angels Network Adoption Society prepared and filed a report in court dated 26<sup>th</sup> November, 2014 declaring the Applicant suitable to adopt.
6. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child.

7. The Director of Children’s Service’s report dated 2<sup>nd</sup> September, 2016 recommended the adoption, for reasons that the child knows the Applicant as her parent and is attached to her. That she has also bonded well with the Applicant. The guardian ad litem, M/s. M N N also filed a report that was favourable and recommended the adoption of the child by the Applicant.

8. The Director of Children Services’ report states that the Applicant desires to provide a home to a child who has no family and also to have a child of her own. That the child having been abandoned at infancy by her mother, means that the biological parent did not desire to raise her. Mr. J K N who is indicated to be the Applicant’s relative has consented to be appointed as the legal guardian of the child should the need arise.

9. Of note is that the orders sought by the Applicant relate to a child. In law, in any matter concerning a child, the best interests of the 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.”**

This principle also finds expression in the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof. The Applicant’s opportunity or desire to have a child of her own is therefore only of secondary importance.

10. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, I am satisfied that it is in the best interest of the subject child to be adopted by the Applicant.

11. The child appears to have thrived and is healthy and happy under the care of the Applicant. She was in court during the hearing and appeared to have bonded well with the Applicant. She clearly considered her as her parent. The court also observes that the Applicant being aged 50 years, is older than the child by more than 21 years and is not yet above 65 years of age. She therefore meets the requirements of the law on age.

12. In the premise I find that it is in the best interest of the child herein that I allow, as I hereby do, the application brought by way of Originating Summons dated 14<sup>th</sup> March, 2016 and order as follows:

- i. The Applicant V N M is hereby allowed to adopt baby L Alias L W who shall henceforth be known as **J N**.
- ii. It is presumed that her date of birth is 20<sup>th</sup> May, 2013, and that she was born in Kenya, and the place of birth shall be Nairobi.
- iii. J K N (a relative to the Applicant), is hereby appointed legal guardian of the child in the event that the Applicant dies or is incapacitated by ill-health.
- iv. The Registrar General is hereby 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 **30<sup>th</sup> day of March, 2017**.

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**L. A. ACHODE**

**JUDGE**

**In the presence of .....Advocate for the Applicant**