



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 24 OF 2015**

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

**AND**

**IN THE MATTER OF ADOPTION OF BABY H (MINOR)**

**JUDGMENT**

1. The Applicants, PMN and E K are Kenyan nationals in a monogamous union solemnized at [Particulars withheld], Ongata Rongai on 11<sup>th</sup> October, 2008. By way of Originating Summons application dated 29<sup>th</sup> January, 2015, the Applicants seek for orders to be allowed to adopt a male child known as Baby H.
2. The male applicant indicates that he is a teacher by profession currently employed at [particulars withheld] Academy while the female applicant is a self employed business person. The couple has not been blessed with any biological child and their desire to adopt Baby H is motivated by the need to provide the child with parental love and care in a family setting. They reside in Ongata Rongai and are both Christians.
3. The minor was born on 9<sup>th</sup> September, 2012 at Pumwani Maternity Hospital to one I K N. Prior to delivery of the baby, the biological mother had expressed her intention to offer the child for adoption to Child Welfare Society of Kenya. The child was placed at Mama Ngina Kenyatta Children's Home on 24<sup>th</sup> September, 2012 and was released from the hospital and admitted to the said home. The biological mother, through an affidavit sworn on 22<sup>nd</sup> October, 2012 voluntarily gave her final consent to offer the minor for adoption to the Child Welfare Society of Kenya. On 25<sup>th</sup> February, 2013, the minor was officially committed to the said home following Protection and Care case No. 51/2013.
4. Baby H was declared free for adoption by the Child Welfare Society of Kenya on 19<sup>th</sup> June, 2013 vide freeing certificate No. [particulars withheld]. He was released into the Applicants' custody for mandatory foster care and bonding pending adoption on 23<sup>rd</sup> August, 2013. Since then, the minor has been in the care and custody of the Applicants.
5. The applicants' chamber summons application dated 29<sup>th</sup> January, 2015 was allowed on 16<sup>th</sup> March, 2017, the effect of which had B W, the proposed guardian ad litem appointed as such and together with the Director of Children Services directed to conduct a home study and submit their respective reports to court.
6. The guardian ad litem filed her report dated 29<sup>th</sup> June, 2017, the Director of Children Services report was dated 7<sup>th</sup> April, 2017 and the Adoption Society – Child Welfare Society of Kenya report was dated

4<sup>th</sup> February, 2016. These said reports are all favourable and recommended the adoption of the minor to be in his best interests.

7. The records presented before the court illustrates that the Applicants have been assessed and they have no criminal records. Further, that they are financially, socially and emotionally stable. The home visits revealed that the Applicants live in a rented two bed roomed spacious house that is secure and conducive to raise a child. The Applicants also have various assets among them ¼ an acre in Langau, 1 acre land at Oletipis and 50 x 100 acre plot in Kangundo hence guaranteeing the child a bright future including inheritance.

8. This court takes cognizance that this is a kinship (local) adoption and that the Applicants are a married couple who have met the age limits required under the Children's Act, 2001. Further, that in line with Section 158(4) (a) of the Act, the consent of the mother was availed to court by Child Welfare Society of Kenya.

9. After analyzing the records presented before the court and having observed the child during hearing on 29<sup>th</sup> June, 2017, this court is satisfied that the Applicants are capable of raising the child in this matter. The child seems to have flourished in the care of the Applicants, who have provided him with the material, physical and emotional needs to develop. For instance, the baby has been enrolled in an academy which will aid his academic advancement.

10. Article 53(2) of the Constitution, Section 4(3) of the Children Act and various international legal instruments inter alia the United Nations convention on the Rights of the child all point to a child's best interests being of paramount importance. It is on this basis that the court is satisfied in the Applicant's suitability to take on parental responsibility over the child.

11. Reasons wherefore, this court finds the Originating Summons application to be merited and makes the following orders:

- (a) The Applicants are hereby allowed to adopt Baby H, who shall then be known as S G P.
- (b) The child's date of birth shall be 9<sup>th</sup> September, 2012 and his place of birth Nairobi, Kenya. He is hereby declared a Kenyan citizen.
- (c) The Registrar General is directed to enter this order in the Adopted Children Register.
- (d) J M T shall be the legal guardian of the child should anything befall the Applicants.
- (e) The guardian ad litem is hereby discharged.

It is so ordered.

DATED AND DELIVERED IN OPEN COURT THIS 4<sup>TH</sup> DAY OF AUGUST, 2017.

**J.N. ONYIEGO (JUDGE)**

In the presence of;

.....Advocate for the applicants