



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI**  
**ADOPTION CAUSE NO. 202 OF 2014**  
**IN THE MATTER OF THE CHILDREN'S ACT, 2001**  
**AND**  
**IN THE MATTER OF ADOPTION OF**  
**BABY J J.....CHILD**  
**BY**  
**J O A.....1<sup>ST</sup> APPLICANT**  
**B M.....2<sup>ND</sup> APPLICANT**  
**JUDGMENT**

J O A and B M (herein after referred to as 'Applicants') by way of Originating Summons Application and an Affidavit in support of the Application dated 28<sup>th</sup> August 2014 sought Orders to adopt Baby J J (hereinafter referred to as Baby J J 'the Child'). They also prayed that the Child be declared a Kenyan Citizen, that consent of the Biological mother of the Child be dispensed with and that upon making of the adoption order the Child be known as R G B.

The Applicants are adult Kenyan citizens. They got married in 2002 under the African Christian Marriage and Divorce Act (Now Repealed); as evidenced by their copy of marriage certificate of serial no. [particulars withheld]. The 1<sup>st</sup> Applicant works at [particulars withheld]. and the 2<sup>nd</sup> Applicant is a teacher by profession. They reside in Nairobi County. They are Christians and have no biological children of their own. Their motive to adopt is to give a needy child a family and to fulfill the joy of parenthood. They have been in custody and care of the Child since 21<sup>st</sup> October 2011.

Baby J J the Child herein is a male Child. He is 7 years old and currently in class 1 at [particulars withheld]. The Child was found abandoned at Pumwani Maternity waiting room on 17<sup>th</sup> December 2009. The matter was reported to Kamkunji Administration Police Post vide OB No. [particulars withheld], as confirmed by a copy of the letter from the District Commissioner, Kamkunji dated 9<sup>th</sup> February 2010. The matter was also referred to the Children Office, Kamkunji. The Child was then referred to Dagoretti Children's Centre (Abandoned Baby Center) where he was admitted on 14<sup>th</sup> January 2010 as shown by a copy of the Dagoretti Children's Center admission form attached. He was later committed to the Center by the Children's Court on 22<sup>nd</sup> February 2010 vide **Protection and Care Case No. 124 of 2010** as

confirmed by a copy of the Court's committal order. The Child remained at the Center until 21<sup>st</sup> November 2011 where he placed in the custody and care of the Applicants for foster care pending this adoption. Copies of letters from the Police Administrative Post, Kamkunji dated 14<sup>th</sup> July 2010 confirmed that ever since the matter was reported, no one went to claim the Child. The Child was declared free for adoption by the Child Welfare Society of Kenya on 20<sup>th</sup> November 2013 and a freeing certificate of serial no. 0589 was issued.

L O O, the proposed guardian *ad-litem* filed his Affidavit of consent dated 28<sup>th</sup> August 2014 and was appointed to act as the guardian *ad-litem* for the purposes of this adoption vide a Court order dated 28<sup>th</sup> October 2014. He conducted a home visit at the Applicants home and filed his Report dated 29<sup>th</sup> June 2016. He stated that the Child was in good health and had interacted well with the Applicants and fellow children from the place of residence. He also stated that the Applicants had catered for the basic needs of the Child and they should be allowed to adopt Baby J J.

A representative from the Children Welfare Society of Kenya also conducted a home visit to establish the suitability of the Applicants to adopt and filed a reported dated 20<sup>th</sup> November 2013. The Report established that the Applicants had committed towards giving the Child good education by enrolling him in a good school. It confirmed that the Child was well taken care of and that the Applicants' home was a conducive environment for the Child to grow. The Report also confirmed that the extended families of the Applicants were aware of the intended adoption and they were happy and had consented to the same. It was also confirmed that the Applicants had a clean bill of health and that they had no criminal records as elucidated by their certificates of good conduct. It was observed that the Applicants had bonded with the Child and that he looked healthy and well maintained. It was also observed that the Applicants were physically, socially, emotionally and financially capable to take care of the Child. They recommended the adoption stating that it would be in the best interests of the Child as the Applicants were ready and willing to take care of him.

The Children Officer also filed a Report dated 9<sup>th</sup> June 2016 pursuant to the Court's Order dated 10<sup>th</sup> November 2014. From the home visit conducted, it was observed that the Child has fitted well with the Applicants, that he was in good health and that he was enrolled in [particulars withheld]. The Report confirmed that the Applicants had provided the Child with a good home environment that they were socially and financially stable and were of good criminal record. Accordingly, they recommended the Adoption as it would be in the best interest of the Child.

## **DETERMINATION**

From the foregoing, this is a local adoption where the Applicants who are citizens of Kenya and within the Republic of Kenya seek to adopt a Child. From the evidence before this Court, the Applicants have fulfilled all the legal requirements for a local adoption under **the Children's Act, 2001**. They are socially and financially capable of taking care of the Child. Moreover, all the Reports filed in respect of this proposed adoption recommend the adoption without reservations as it will be in the Child's best interests. The consent of the biological mother of the Child is hereby dispensed with pursuant to **Section 159(a) of the Act** as the same cannot be obtained. Accordingly, J O A and B M are hereby allowed to adopt BABY J J. Henceforth, the Child be known as R G B. He shall be presumed to be a citizen of Kenya by birth; born on 17<sup>th</sup> November 2009 in Nairobi County. J K O Cousin to the 1<sup>st</sup> Applicant shall be the legal guardian of the Child should any eventuality befall on the Applicants. The Registrar General is hereby ordered to enter this Adoption order in the adoption register. The guardian *ad-litem* is hereby discharged.

**IT IS SO ORDERED.**

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**M.W. MUIGAI**

**JUDGE**

**In the presence of:**

.....