



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO.261 OF 2014**

**IN THE MATTER OF THE CHILDREN ACT NUMBER 8 OF 2001**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY H J**

**A M K**

**W W W.....APPLICANTS**

**JUDGMENT**

1. By an Originating Summons dated 24<sup>th</sup> October the applicants **A M K** hereinafter referred to as the 1<sup>st</sup> applicant and **W W W** seek to be authorized to adopt the child **H J** hereinafter referred to as a child and if the adoption is allowed the child to be known as **E R W M**. They also seek that the child be considered a Kenyan Citizen.

2. The applicants as per their statement filed in court on the 6<sup>th</sup> November 2014 aver that they are married. A is employed as a *[particulars]* and W as a financial officer at *[particulars]*. That the child was committed to their care by Kenya Children home on the 25<sup>th</sup> May 2014 and they have had the joint care and custody of the child from the said time to date. That **T K K** a brother to the 1<sup>st</sup> applicant as agreed to be the legal guardian of the child and to take care of the child in the event of incapacitation or death of either both of them.

3. The report of Kenya Children Homes dated 22<sup>nd</sup> January 2015 gives a detailed background of each applicant on their family, education and work experience. According to the report the child was presumably born and found abandoned on 2<sup>nd</sup> November 2013 at Show Ground Area of Kajiado District. She was rescued by unnamed Good Samaritans and taken to Kajiado District Hospital where she was admitted on 2<sup>nd</sup> November 2013. The matter was reported at the Kajiado Police Station and to the District Children's office Kajiado Central on 2<sup>nd</sup> November 2013 and the matter was recorded at the police station vide occurrence book Number *[particulars withheld]*. The occurrence book number was not recorded in the police letter issued on 11<sup>th</sup> November 2013 but was recorded in Kajiado Central District Children's Officer letter dated 8<sup>th</sup> November 2013. The minor was discharged from the hospital on 8<sup>th</sup> November 2013. The Kajiado Central District Children's Officer referred the child to Mahali Pa Maisha for care and protection and was committed to the said home vide case number 18 of 2013. The child was later on freed for adoption by the Kenya Children's Homes Adoption Society's Case Committee on its sitting of 21<sup>st</sup> May 2014 and a freeing certificate serial no. *[particular withheld]* issued pursuant to section 156 (1) of the Children's Act 2001.

4. As per the report the applicants decided to parent through adoption after realizing that they needed to become parents. Having waited for their own biological children. The report recommends the adoption noting that the applicants have demonstrated their ability to take and provide for the minor for 8 months from the date of the report. It was observed that they are young and resourceful, social, moral and spiritual upright individuals who will endure to do their best and bring up the child.

5. The report from the Director of Children Services dated 12/01/2017 too recommends the adoption. Their observation is that the baby looks healthy and happy and has bonded well with the applicants. That

the relatives have supported the applicants in the process. The Director recommends that it is a local adoption and that the applicant have fulfilled the legal requirements under the Children Act. That the applicants have proved capable of taking on parental responsibility over the child in the matter during the statutory placement period prior to adoption during which she has been under their continuous care and control. Socially, the applicants qualify as they have been assessed and found fit to take on the parent responsibilities upon the child permanently as would be conferred on them by the adoption orders sought. They are also in a position to financially provide for the child. They appear to be able, ready and determined to adopt a child who requires and deserves this alternative family care. The child in this matter is considered available for adoption having been abandoned at the age of 1 week. None of his relatives have so far claimed him. Adoption therefore offers him the perfect alternative family. In this proposed adoption, he stands to gain a parent. She is doing well under the care of the prospective adoptive parents whom she has also bonded well with.

6. The Guardian ad litem, J W K in her report dated 17<sup>th</sup> July too recommends the adoption. She observed that the child has bonded well with the applicants and that the adoptive parents are capable of raising the child.

7. This court had a chance to interview the applicants in court on the 17<sup>th</sup> August 2017. The 1<sup>st</sup> applicant is 38 years old work with *[particulars withheld]* and desires to adopt the child who is now 4 years old having taken her when she was 6 months. The 2<sup>nd</sup> applicant is currently 36 years old and she is a financial officer. According to her she loved the child from the 1<sup>st</sup> time she saw her. The child in the cause was found abandoned on the 2<sup>nd</sup> November 2013 and was declared free for adoption on the 21<sup>st</sup> May 2014. The applicants have had the child from September 2014. The applicants are within the age required to adopt. They have fulfilled all the legal requirements on the adoption process and every report on them recommends the adoption. They love the child and have given her home and care that every child needs. I find that it is in the best interest of the child to grant the orders sought. This court authorizes **A M K** and **W W W** to adopt the child **H J**. The child shall be known as **E R W M**. I direct the Registrar General to enter this order in the adoption register. **T K K** shall be the Legal Guardian of the Child in case of incapacitation or death of either or both of the applicants. The child was born in Kenya and is therefore a Kenyan by birth and is entitled all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem. It is so ordered.

Dated , signed and delivered this **28<sup>th</sup>** Day of **September** 2017.

**R. E. OUGO**

**JUDGE**

In the presence of:

**Absent Applicants**

**Ms. Charity Court Clerk**