



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERICHO**

**ADOPTION CAUSE NO.3 OF 2016**

**IN THE MATTER OF THE CHILDREN ACT (ACT NO.8 OF 2001)**

**AND**

**IN THE MATTER OF BABY M J Alias C M Alias J S (CHILD)**

**JUDGMENT**

1. The applicant D O N and N N M are husband and wife aged 43 and 39 respectively. They have brought the application dated 10<sup>th</sup> February 2016 seeking to be authorized to adopt the male child currently identified and known as M J *alias* C M (sic).
2. D O N, the 1<sup>st</sup> applicant, is 43 years of age having been born in 1974. He is a [*particulars withheld*] profession and works at the [*particulars withheld*]. The 2<sup>nd</sup> applicant, N N M, was born in 1978 and is now aged 39. She is [*particulars withheld*] and is engaged as an [*particulars withheld*].
3. The applicants were married under Christian rites on 8<sup>th</sup> April 2005. They have two biological children, R M O born on 14<sup>th</sup> January 2006 and S M O born on 13<sup>th</sup> August 2010.
4. The minor in respect of whom this adoption cause relates is M J *alias* C M *alias* J S. According to the report from the Kenya Children's Homes Adoption Society filed with the application, the child was born on 1<sup>st</sup> June 2014 to one C M at the Rift Valley Provincial General Hospital. His mother disappeared immediately after delivery and he was admitted at the new born unit at the hospital.
5. Upon discharge, he was placed at the Africa Gospel Church Baby Centre, Nakuru on 3<sup>rd</sup> July 2014. He was committed to the Africa Gospel Church Baby Care Centre, Nakuru on 14<sup>th</sup> January 2015 through **Protection and Care** [*particulars withheld*].
6. It was confirmed by Nakuru Police Station, to whom the abandonment of the child was reported vide occurrence book number [*particulars withheld*], that no-one had gone to the station to claim the child. Police efforts to trace his relatives were also futile. Accordingly, he was declared free for adoption by the Kenya Children's Homes Adoption Society on 11<sup>th</sup> February 2015 and a freeing certificate serial no.1216 issued pursuant to section 156 (1) of the Children Act 2001. The child was placed with the applicants on 7<sup>th</sup> September 2015.
7. On 23<sup>rd</sup> September 2016, H K and V J K were appointed Guardians *ad Litem* in respect of the child. The Director, Children's Services was also directed to investigate and file a report with respect to the suitability or otherwise of the applicants to adopt the child.

8. In his report dated 15<sup>th</sup> October 2016, the Children's Officer, Bomet, notes that the child, who resides with his proposed adoptive mother, a [*particulars withheld*], appears to be happy with his adoptive parents. He notes further that the proposed adoptive father is a [*particulars withheld*]. The couple owns a piece of land at Kitale measuring 1.2 acres which is developed with 3 semi-permanent houses, a bore hole, napier grass and bananas.

9. The Guardians *ad Litem* filed a report dated 14<sup>th</sup> July 2017. They describe the applicants as industrious and committed Christians, well able to provide for the child. They treat the child as they treat their own biological daughters.

10. I have considered the application and the documents in support. I note that the child, M J *alias* C M *alias* J S was abandoned at birth, and that no-one has gone to claim him since. I further note that the applicants, a [*particulars withheld*], though with two biological children of their own, have the willingness and means to take care of the child. They are aged 43 and 39 years respectively, and are therefore more than 21 years older than the child.

11. Accordingly, I hereby grant the orders sought by the applicants. The applicants are hereby allowed to adopt the child, M J *alias* C M *alias* J S.

12. The child is declared a Kenyan citizen and shall be re-named J S. His date of birth shall be 1<sup>st</sup> June 2014. The Registrar General is directed to make the appropriate entries in the Adopted Children's Register, while the Registrar of Births and Deaths is directed to issue a birth certificate in respect of the child.

13. C O N and H K O, the 1<sup>st</sup> applicant's brother and sister in law respectively, are hereby appointed the legal guardians of the child should any misfortune befall the applicants.

14. The Guardians *ad Litem* are hereby discharged.

15. It is so ordered.

**Dated, Delivered and Signed at Kericho this 22<sup>nd</sup> day of September 2017.**

**MUMBI NGUGI**

**JUDGE**