

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO.17 OF 2017

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J S AKA J Z, J N- MINOR

S N K1ST APPLICANT

J V W.....2ND APPLICANT

JUDGMENT

1. **S N K** hereinafter referred to as the 1st applicant and **J V W** hereinafter referred to as the 2nd applicant seek to be authorised to adopt baby **J S** an infant and if authorised the infant to be known as **L M W N**. They also seek that the child be presumed to be born in Kenya.

2. The applicants' respective dates of birth are 24th November 1970 and 29th January 1975. They got married on the 8th of April 2006. They desire to adopt the infant whom they have been fostering since 25th October 2016. The child was declared free for adoption on the 12th of August 2016. They have met the child's need since placement and they are in a stable financial position to take care of her. They have not committed any crimes and are physically and emotionally fit and healthy to take care of the infant. **C N** who is the 2nd Applicants sister together with her husband **J N** have consented to be the legal guardians of the child in the event that they are incapacitated before the child attains the age of majority.

3. According to the report from Buckner Kenya Adoption services the infant was found abandoned on the 29th June 2014 near the home of **T E A**. The matter was reported to Kiganjo Police Station on the 30th June 2014 vide OB No. 28/30/6/2014. The child was first placed under the care of **T E** and later removed and committed to New Life Home Trust in Nyeri vide a committal order for care and protection No. 63 of 2014. **T** had laid claim on the child but failed to prove that she was related to the child. On the 1st August 2016 the sub county children's officer in Nyeri did a final reports that the child was an abandoned child, the mother's whereabouts are unknown, the child's father never laid claims on the child nor availed himself for a DNA test to determine the paternity of the baby since the time of abandonment in 2014 and that the husband of **T E** stated that his son is not the father of the baby. Kiganjo police confirmed on the 1st of August 2016 that no one had claimed the child since she was abandoned. New Life Trust further reported that during her stay in the institution no relative had turned up to claim the child. The child was declared free for adoption vide Adoption Number [particulars withheld] pursuant to Section 156 (1) of the Children Act.

4. The report from the County Children's Coordinator gives a detailed background on the applicants and the child. It states that the child has bonded well with the family and the applicants. The applicants have a stable income and that during the assessment period they have been found to be fit to take on parental responsibility. That the baby has bonded well and she stands a chance to have a permanent home and parents who truly care for her and her future life. The Director Children services recommends that the applicants be granted the said orders having met all the legal requirements as provided in the Children Act 2001.

5. The child in this matter was an abandoned child. This is clear from the 2 reports. The applicants have

met all the legal requirements as provided in the Children Act 2001. They love and care for the child. I find that it would be in the child's best interest to authorise the adoption. I allow the application for adoption. The applicants **S N K** and **J V W** are hereby allowed to adopt **baby J S**. She shall henceforth be called **L M W N. C N and J N** shall be the legal Guardian of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. 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.

Signed, dated and delivered this **24th day of November 2017.**

R. E OUGO

JUDGE

In the presence of:

.....**Applicants**

Ms Charity Court Clerk