

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.57 OF 2017 IN THE MATTER

OF THE CHILDREN ACT NUMBER 8 OF 2001

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY C N

J M M.....1ST APPLICANT

R N N.....2ND APPLICANT

JUDGMENT

1. The applicants **J M M** and **R N N** are seeking to be authorized to adopt **Baby C i** hereinafter referred to as the child. They also seek that upon making the adoption the child be called **C T N M**. They also seek that **F M N** and **A M** to be appointed the Legal Guardians of the child in the event of death or incapacity of the applicants before he is of full age or fully reliant.

2. The applicants are Kenyans both born on 27th September and 18th September 1979. The applicants got married on 9th June 2007. They have one biological child **N M** who is 7 years old. The applicants are both advocates of good standing practicing as such in the law firms of **M and Co. Advocates** and **A & K Advocates** respectively. They are financially stable to provide fully for the child. They are both physically and emotionally fit to parent a child and none of them has been charged or convicted with any criminal offence referred to in the Third Schedule of the Children's Act. Their home is comfortable and capable of nurturing a child.

3. The child's biological mother visited the Kenyan Peace Initiative (KKPI) and gave up the child for adoption. The mother desired to give up the child for adoption which are personal and are stated in her affidavit dated the 6/1/2016 and letter dated the 10/7/2015. KKPI Adoption Society in consultations with the Children's Office placed the child with Nest Children home. The child was presented before the children's court in Nairobi and Committed to Nest Children home under Care and Protection no. *[particulars withheld]*. After 7 months, KKIP Adoption Society visited the child's biological mother to confirm whether she still wanted to give up her child for adoption and she swore an affidavit dated 6th January 2016 confirming the same. The child was declared free for adoption by KKIP Adoption Society on 27th July 2016. The child was placed with the applicants on 18th September 2016 and has been under their care ever since.

4. The Department of Children Services filed their report on 18th September 2017. The officer observed that the baby has bonded well with the applicants and refers to them as mum and dad. The baby looked healthy. The applicants have 2 house helps to help them with the chores while at work. The report recommends the local adoption as the applicants have fulfilled the legal requirements as provided under the Children's Act. The baby has bonded well with the applicants and other members of the family. The applicants are capable of taking on parental responsibility as they are socially fit and are financially capable to provide for the needs of the child. So far, the child is doing well under the care of the applicants and the report recommends that the adoption is in the child's best interest.

5. The guardian ad litem report was filed on 19th October 2017. The guardian ad litem observed that the adopting parents have means and capabilities to provide for the child. The adoption is supported by their

families and close friends. The adoptive parents have been assessed by the Kenya police and found to have no criminal record. The adoptive parents are mature responsible and emotionally capable of taking care of the child and recommends the adoption.

6. It is evident that the applicants have fulfilled all the legal requirements relating to the adoption of the child as the Children Act. This court is satisfied that the applicants are qualified and able to take care of the child. They are financially stable and capable to provide for the upkeep and education of the child. It was evident that in the period that the applicant has had the custody of the child, the child bonded well with him.

7. This court finds that it would be in the best interest of the child to be adopted by the applicants. I allow the application for adoption. The applicants **J M M** and **R N N** are hereby allowed to adopt **Baby C N**. He shall henceforth be called **C T N M. F M N** and **A M** shall be the child's legal Guardian in the event of death or incapacity of the applicants before he is of full age. 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.

Dated, signed and delivered this **14th** Day of **December** 2017.

R. E. OUGO

JUDGE

In the presence of:

Miss Kathungu h/b for M/s Kiguatha For the Applicants

Ms. Charity

Court Clerk