



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 230 OF 2014 (OS)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY J**  
**BY**  
**G N M AND J K N (APPLICANTS)**

**JUDGMENT**

1. The Applicants G N M and J K N are in a monogamous marriage which was solemnized at P.C.E.A Bahati, in Nairobi on 28<sup>th</sup> November 1998. They have no child of their own. They wish to adopt the child known as Baby J a minor of female sex, through the Originating Summons dated 3<sup>rd</sup> October, 2014. They indicate that G N M is a Freelance-self-employed driver, while J K N is a business woman. They reside in in *[particulars withheld]* Estate, Kitengela and are both Christians.
2. According to a statement recorded by one R N, he came across the child who is the subject of these adoption proceedings, abandoned at Jevanjee Gardens Nairobi on 30<sup>th</sup> May 2008. He reported the matter to the Central Police Station where where it was booked as OB No. 117/30/5/2008. He was told to keep the baby until 31<sup>st</sup> May 2008. On 31<sup>st</sup> May 2008, the matter was reported again to the Kamukunji Police Station where it was booked vide OB No.36/31/2008.
3. On 31<sup>st</sup> May 2015 the child was referred to Thomas Barnados Home Nairobi, for care and protection. On 27<sup>th</sup> June 2008, the child was officially committed to the same home by the Senior Resident Magistrate at the Children's Court Nairobi, vide P&C Case No. 134/2008. A Letter dated 8<sup>th</sup> December, 2008 from Kamukunji Police Station indicates that the biological parents of the child were not traced, nor did anyone come forward to claim the child.
4. The child was declared free for adoption on 10<sup>th</sup> December 2008 by the Kenya Children's Home Adoption Society vide certificate No. 419. She was released into the custody of the Applicants for mandatory foster care pending adoption on 15<sup>th</sup> December, 2008. The Applicants also signed a Foster Care Agreement dated the same day. Since then she has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society, an adoption society, prepared and filed a report in court.
5. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child.

6. The Director of Children’s Services also filed a report dated 9<sup>th</sup> September, 2015 that recommended the suitability of the Applicants to adopt but raised issues of irregularities which made it difficult for the Director to recommend that final orders be granted in favour of this application. The Director notes that although the Kamukunji Police indicated that the biological parents of the child have not been traced, a letter dated 21<sup>st</sup> July 2008 by one I M, an intern Social Worker at Thomas Barnados Home indicated that Robert, who rescued the child was contacted by the child’s mother through a number given by Constable Ndolo of Kamukunji Police Station. On 9<sup>th</sup> September, 2015, the office of the Director called Robert on telephone Number **[particulars withheld]**, and he admitted to having rescued the child but revealed that Police at Kamukunji declined to give the mother her child and instead closed the case.
7. The guardian ad litem, P M M also filed a report that was favourable and recommended the adoption of the child by the Applicants.
8. The child was in court during the hearing of the application and appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants.
9. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicants and the child during the hearing, the court notes that the Director Children’s Services raises grave issues on the history of the child and is unable to recommend that the orders be granted. Mr. Peter Ndotono from the Kenya Children’s Home submitted that one Esther Wangu who was the Investigating officer in this matter had filed a report stating that since 21<sup>st</sup> July 2008 the a representative of Home went to the Police seeking to get any new information and it was found that R N did not go to the Police and the police themselves had still not traced the child’s parents. That the Police did issue a clearance letter.
10. From the foregoing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Reasons wherefore I allow the prayers sought in the Originating Summons dated 3<sup>rd</sup> October, 2014 and order as follows:
11. The Applicants, G N M and J K N are hereby allowed to adopt baby **J** who shall henceforth be known as **G H W N**.
  - i. Her date of birth shall be presumed to be 31<sup>st</sup> January, 2008 She is presumed to have been born in Kenya and the place of birth shall be Nairobi.
  - ii. P M G and A W M (lady Applicant’s and her husband) respectively are hereby appointed legal guardians of the child in the event that the Applicants die or are incapacitated by ill-health.
  - iii. I direct the Registrar General to enter this order in the Adoption Register.
  - iv. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
  - v. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED** and **DELIVERED** in open court this **29<sup>th</sup> day of January 2016**.

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**L. A. ACHODE**

**JUDGE**