



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
ADOPTION CAUSE NO. 4 OF 2014 (O.S.)
IN THE MATTER OF M W (CHILD)
IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER BY J K K & E N K
IN THE MATTER OF THE CHILDREN'S ACT

JUDGEMENT

The applicants **J K K** and **E N K** have in their originating summons dated 8th April 2014 applied to this court under the provisions of Section 158 of the Children Act,[\[1\]](#) for orders:-

- i. *That **P W M** and **J G W** be appointed as guardians ad liem.*
- ii. *That the applicants be authorized to adopt baby **M W**.*
- iii. *That this Honourable Court do dispense with the mother's consent as she abandoned the baby.*

The originating summons is supported by the applicants statement in support of an application for an adoption order in which the applicants state that they are husband and wife and that they are 50 and 40 years respectively (as at the time of instituting the proceedings), that they applied for the adoption of a child at the Little Angels Network and their application was approved, that the child was released into their care and custody on 27th December 2012 and since then the child has been with them and that the mandatory fostering period has expired, that they propose the persons listed in prayer one above as guardians *ad litem* in respect of the child, that the proposed guardian *ad litem* has consented and a favourable report on the guardian *ad litem* has been provided, that the child has been declared free for adoption. The applicants annexed copies of documents in support of the facts stated in the said statement.

Briefly, the report to declaring the child free for adoption states that the child was born on 10th June 2012 at the Nanyuki District Hospital. That the mother to the child a one **J K** absconded from the Hospital the same day leaving the child abandoned. The child's incident of abandonment was recorded at the Nanyuki Police Station vide Occurrence Book Number [particulars withheld]. The child was presented before the children's court at Nyeri for committal into care of New Life Home Trust and was accorded a protection care number being care case number 82/2012 for a period of three years. A letter dated 17th December 2012 from the District Children's Officer, Laikipia East confirms that the child was abandoned after birth as herein above stated.

I have carefully perused all the reports in this application among them a report declaring the Child Free for Adoption pursuant to Section 156 (1) of the Children's Act[\[2\]](#) and Adoption Regulations,[\[3\]](#) Social Inquiry Report dated 30th April 2015 prepared by the Children's Officer, Nyeri Central which recommends the applicants, Certificate of declaring a child free for adoption and all the annexed

documents and I am satisfied that the proposed adoption is in the best interest of the child who will grow up with a mother and a father figure in his life and will be accorded parental love. I am satisfied that the child will benefit from the parenthood of the applicants and will have a better future and prospects of becoming a useful member of the society.

As the child was abandoned and no one has ever come up to claim the child to date, I dispense with consents of the biological parents. I am satisfied that the provisions of the Children's Act^[4] have been complied with. I allow the application and make the following orders:-

- i. *The applicants **J K K** and **E N K** are hereby authorized to adopt the child known as **M W**.*
- ii. *The child shall henceforth be known as **M W K**.*
- iii. *That the legal guardians of the child shall be **P W M** and **J G W** (who shall step in the shoes of the applicants in the unfortunate event that the applicants are unable to shoulder their parental responsibility).*
- iv. *The Registrar General shall make an entry of this adoption in the Adopted Children Register in the prescribed form.*
- v. *For avoidance of doubt, it is herein declared that all rights, duties, obligations and liabilities of the biological parent(s) or guardians of the child are extinguished and all such rights, duties, obligations and liabilities shall vest in and be exercised by and enforceable against the adopting parents, namely, **J K K** and **E N K** as if the said child was their biological child and the child shall have the right to inherit the applicants.*

Orders accordingly

Dated at Nyeri this 24th day of February 2016.

John M. Mativo

Judge

^[1] No 8 of 2001

^[2] Ibid

^[3] Supplement No. 37

^[4] Supra