



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MURANG'A**  
**ADOPTION CAUSE NO 10 OF 2015**  
**IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER**  
**AND IN THE MATTER OF CHILD C W N**  
**C M K.....APPLICANT**

**R U L I N G**

1. The Applicant herein, **C M K**, has by **amended originating summons dated 20/01/2016** (the original originating summons is dated 15/12/2015) seeking in the main an order of adoption of the **Child C W N**. The following ancillary orders are also sought -

- i. That the consent of the parents of the Child for the adoption be dispensed with as both her parents are deceased.
- ii. That the **Registrar-General** be ordered to make appropriate entries in the **Adopted Children's Register** in respect to the Child C W N.
- iii. That the Child be presumed to be a Kenya citizen and be accorded all the rights accruing to Kenya citizens.

2. An order was also sought to appoint C W K and M W G as “...**legal guardians of the Child in the event of death or incapacity of the Applicant rendering her unavailable or incapable of taking care of the Child.**”

However, these are proceedings for an adoption order, and the court need not consider any application for a speculative order for appointment of a legal guardian in the event of the Applicant's death or incapacity (if the adoption order sought is granted), particularly given that the Child will very shortly attain the age of majority.

3. I have read all the material placed before the court, including formal reports by the adoption society and the **Children's Department**, both of which are favourable. I also interviewed in court the Child and the Applicant's biological son who is now an adult.

4. The Child is the niece of the Applicant as her mother was the Applicant's elder sister. The Child was born on 22/02/1998. So, she will attain majority (18 years) on 22/02/2016. She finished her secondary education last year and is awaiting her KCSE results.

5. The Child's mother, **N W K**, as already mentioned, was the Applicant's elder sister. She died on 01/08/2003. Her husband (the Child's father), **J N M**, had died earlier on 17/09/1999 when the Child was about 1½ years old. After her mother's death the Child lived at the home of a brother of the Child's paternal grandfather for about 5 years. She did not experience any happiness there.

6. From about 2008 the Child has lived with the Applicant and the Applicant's biological son, **D N**. They live a nice apartment on **Kiambu Road**, Nairobi. The Child regards the Applicant as her mother, though she knows that she is not her biological mother. She regards D as her elder brother. D in turn regards the Child as his younger sister.

7. The Child is very happy with her proposed adoption by the Applicant. For her it will simply be formalization of a reality that already exists. D is also happy with the proposed adoption. Both have given their written consents. They understand fully the full import of an adoption order and its irrevocable nature.

8. Eight of the Applicant's siblings (who are the Child's aunties and uncles) have sworn affidavits in support of the adoption order sought. Of the other two siblings, one works and resides in the **United Kingdom**, and the other one works at **[particulars withheld]** in Northern Kenya. Their written consents could not be obtained within the time-frame available; but the court has been told that they support the adoption order sought.

9. The Applicant is now 48 years old. She works with the **[particulars withheld]** as a child protection specialist. She earns a very good salary and is able to maintain and educate both her son and the Child to high standards. She is the Child's maternal auntie, as already seen, and is eminently suitable to adopt her. She has been taking care of the Child and educating her for eight (8) years now.

10. Having considered all the material placed before the court and learned Counsel's submissions, I am satisfied that the adoption order sought will be in the best interest and welfare of the Child. I will in the circumstances allow the amended originating summons in prayer 1, 2, 4 and 5. It is so ordered.

**DATED AND SIGNED AT MURANG'A THIS 15<sup>TH</sup> DAY OF FEBRUARY 2016**

**H.P.G. WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 16<sup>TH</sup> DAY OF FEBRUARY 2016**