

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 83 OF 2015

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J B

E A A1ST APPLICANT

C A K2ND APPLICANT

JUDGMENT

The Applicants, E A A (“the 1st Applicant”) and C A K (“the 2nd Applicant”), seek by their application to be allowed by this Court to adopt Baby J B (hereafter “the child”). The Applicants are husband and wife. They celebrated their marriage on 7th March 2014 at the Office of the Registrar in Nairobi under the **Marriage Act** (*now repealed*). The 1st Applicant is a businessman in Nairobi while the 2nd Applicant is employed as a Management Consultant at [*particulars withheld*] Limited. Both Applicants live together in Nairobi. They have two (2) biological children. The Applicants are sympathetic to the needs of needy children and therefore wish to provide a home for a needy child. They also want to expand their family. Thus, the Applicants wish to adopt a child.

The child Baby J B who is the subject of the present adoption proceedings is said to have been found abandoned at Mathare Daraja Mbili 3A on 11th May 2013. He was presumed to have been born on the same day. A report on the matter of the abandoned child was made at Huruma Police Station and was recorded vide OB No. 17/11/5/2013. The child was thereafter admitted at Kenyatta National Hospital on 9th June 2013. He was discharged from the hospital and taken to Hope House Babies Home on 23rd July 2013. The Senior Resident Magistrate Children’s Court sitting at Nairobi, in accordance with **Section 119** of the **Children Act**, committed the child to Hope House Babies Home on 23rd June 2014 vide **P&C No 137/2014**. The child was placed in the custody of the Applicants on 7th August 2014 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicants. According to correspondence from relevant police authorities at Huruma Police Station, no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child’s biological parents to the proposed adoption of the child by the Applicants. The adoption society, Little Angels Network, issued a certificate declaring the child free for adoption pursuant to **Section 156(1)** of the **Children Act**. The said freeing certificate is no. 001491 and the same is dated 30th July 2014.

In an application filed on 1st April 2015, the Applicants sought among others, orders from this Court that S O O be appointed as the child’s guardian ad litem, and that the Director of Children Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report. The Applicants also sought to have the Court appoint E A O, the 2nd Applicant’s sister as the child’s legal guardian. They further sought for an order that upon adoption the child be known as N L G A. On 19th June 2015, this Court issued an order appointing S O O as the child’s guardian ad litem, and further directing the guardian ad litem and the Director of Children Services to file their respective reports in Court.

Pursuant to **Section 156(1)** of the **Children Act**, before this matter came up for hearing, Little Angels Network, the relevant adoption society, prepared and filed in Court a favourable report in respect of the

proposed adoption of the child by both Applicants. They issued a certificate declaring child free for adoption Service Number 001491. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children Services, and this report was similarly in favour of the proposed adoption. The guardian ad litem, S O O, also filed the statutory report made under **Section 160(2)** of the **Children Act** in which he noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.

All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the joint Applicants to adopt the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the adoption society and the Director of the Children Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be his parents.

On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Hence, this Court allows the Applicants' application. The Applicants, E A A and C A K, are hereby allowed to adopt Baby J B. Henceforth, the child shall be known as N L G A. His date of birth shall be 11th May 2013. His place of birth shall be Nairobi, Kenya. He is presumed to be a citizen of Kenya by birth. E A O, the 2nd Applicant's sister shall be the legal guardian of the child should such eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

READ AND DELIVERED IN OPEN COURT AT NAIROBI THIS 31ST DAY OF MARCH, 2016

MARGARET W. MUIGAI

JUDGE

In the presence of;

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