



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO.182 OF 2015 (O.S)**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF BABY T. aka E.W. ( A CHILD)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

F.M.M.....1<sup>ST</sup> APPLICANT

J.M.M.....2<sup>ND</sup> APPLICANT

**JUDGMENT**

1. The applicants are aged 52 and 43 years, respectively, and are a Kenyan couple who got married on 19<sup>th</sup> September 1999. The 1st applicant is a Police Officer by profession while the 2<sup>nd</sup> applicant is a businesswoman. They have one biological child, J.M., who is 17 years. They filed this Originating Summons dated 15<sup>th</sup> July 2015 seeking to be allowed to adopt Baby T. aka E.W., a female child who is estimated to have been born on 5<sup>th</sup> October 2010.
2. Baby T. aka E.W. was on 25<sup>th</sup> November 2010 found abandoned in a house in Mukuru kwa Njenga slums by a good samaritan. The incident was reported at Embakasi police station where it was recorded in O.B No.39/25/11/2010. The Baby was admitted at Imani Children's home on the same day. On 04<sup>th</sup> June 2012 she was formally committed to the said Home by the Children's Court at Nairobi in Protection and Care Case number 149 of 2012. The Police in their final letter dated 30<sup>th</sup> March 2012 reported that their efforts to trace the child's relatives were unsuccessful and that no one had come forth to claim the child since she was reported abandoned. Imani Children's Home also reported that no one had come forth to claim the child during her entire stay there. The child was declared free for adoption as per **section 156** of the **Children Act** by KKPI Adoption Society (a Registered Adoption Society) on 28<sup>th</sup> November 2012 and a freeing certificate serial No.289 issued. She was subsequently placed under the care of the applicants on

13<sup>th</sup> February 2015 for mandatory bonding prior to adoption. She has been under the applicants' continuous care to date.

3. This court on 30<sup>th</sup> September 2015 appointed P.M.M as guardian *ad litem* and ordered that he together with the Director of Children Services do file their requisite reports. Both reports were duly filed recommending that the applicants be allowed to adopt the child as both are socially, emotionally and financially stable and that the child has bonded well with them and knows the applicants as his parents. It was also reported that the child has bonded well with the applicants' biological child as well as their other child M.B. who is the subject of Adoption Cause No.181 of 2015.
4. This court is of the opinion that it is in the best interests of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment to enable the child to grow and develop. They shall assume all parental rights and duties of the biological parents of the child, once adopted, and shall treat her as if she was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child, and that the child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents as the child was found abandoned.
5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-
  - a. the applicants F.M.M and J.M.M are hereby allowed to adopt baby T. aka E.W. who shall henceforth be known as E.M.M;
  - b. the child's date of birth shall be 5th October 2010, and shall be presumed Kenyan by birth having been found abandoned at Mukuru kwa Njenga estate in Nairobi within Kenya;
  - c. J.M.M and J.M.M are hereby appointed as legal guardians to the child in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;
  - d. the Registrar-General is directed to enter this adoption in the Adopted Children Register;
  - e. the Director of Immigration Services is hereby ordered to issue E.M.M with a Kenyan Passport; and
  - f. the guardian *ad litem* is hereby discharged.

**DATED and SIGNED at NAIROBI this 14<sup>th</sup> day of JUNE 2016.**

**A.O. MUCHELULE**

**JUDGE**

**DELIVERED AND SIGNED this 16<sup>th</sup> day of JUNE 2016.**

**W. MUSYOKA**

**JUDGE**