



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**(FAMILY DIVISION)**

**ADOPTION CAUSE NO. 175 OF 2013**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY V M also known as P J  
W**

**JUDGEMENT**

1. The applicant, E W M, is a Kenyan citizen. She is a widow. She seeks to adopt Baby V M also known as P J W. Her originating summons is dated 25<sup>th</sup> July 2013.
2. The child in question was found abandoned within Kitui County on 14<sup>th</sup> February 2011. The matter was reported the same day at the Kyuso Police Station. The child was briefly held at the Kyuso District Hospital where she received care and treatment. She was then admitted at the AIC Kitui Children's Home, for care and protection. She was eventually formally committed to that institution by the Kitui Children's Court. The police were unable to trace her biological parents or other relatives. She is estimated to have been born on 14<sup>th</sup> February 2011.
3. The child was freed for adoption by the Child Welfare Society of Kenya adoption society by their certificate number [particulars withheld] of 13<sup>th</sup> December 2012. The child was placed with the applicant on 14<sup>th</sup> November 2011.
4. To facilitate this adoption, the applicants have been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, E N M. The three have compiled and filed their reports in court. That of the Director of Children Services is dated 25<sup>th</sup> February 2016, while that of the guardian *ad litem* is dated 21<sup>st</sup> March 2014. The report by the Child Welfare Society of Kenya is dated 13<sup>th</sup> December 2012.
5. All these reports are favourable and recommend the proposed adoption. The applicant has demonstrated that she has the financial and emotional capability and capacity to take care of the child. The child herself appears to have bonded well with her and she considers her to be her mother. I have taken note of the fact that the applicant is in the process of adopting another child.
6. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicant. The applicant will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicant shall assume all parental rights and duties of the biological parent in respect of the adopted child; she shall treat the adopted child as if she was born to her. The applicant has 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 her property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
7. I have taken note of the fact that the applicant took custody of the child before she had been freed for adoption. This is contrary to the very clear provisions of the Children Act, Cap 141, Laws of Kenya, on adoption. I have however taken cognisance of the fact that the child has bonded well with the applicant and considers her to be her mother. I have also noted that the applicant has been assessed and found suitable to adopt. It would be in the interests of the child to allow the adoption despite that anomaly.

8. I am satisfied that all the legal requirements for a local adoption have been met, and I therefore make the following orders:-

**(a) That the applicant, E W M, is hereby allowed to adopt the child Baby V M also known as P J W, who shall hereafter be known P J W;**

**(b) That it shall be presumed that the said child is Kenyan by birth and it shall be presumed that she was born on 14<sup>th</sup> February 2011.**

**(c) That L W M is hereby appointed legal guardian of the child in the event something untoward happens to the applicant;**

**(d) That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and**

**(e) That the guardian *ad litem* is hereby discharged.**

**DATED, SIGNED and DELIVERED at NAIROBI this 22<sup>ND</sup> DAY OF JULY, 2016.**

**W. MUSYOKA**

**JUDGE**