



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 92 OF 2016 (OS)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY E A**  
**BY**  
**J M O AND P L W (APPLICANTS)**

**JUDGMENT**

1. The Applicants J M O and P L W are in a monogamous marriage which was solemnized at Parklands Baptist Church in Nairobi on 30<sup>th</sup> April 2011. They have two other children namely, B M A O aged 10 years and R W O aged 5 years. They wish to adopt the child known as Baby E A, a minor of female sex, through the Originating Summons dated 4<sup>th</sup> July, 2016. From the pleadings the court gathers that both the first and second Applicants are Medical Doctors with [*particulars withheld*] and University of Maryland [*particulars withheld*] office respectively. They reside in Westlands and are both Christians.
2. According to records held at Kakuma Mission Hospital in Turkana, on 18<sup>th</sup> December, 2010 a mother, one A E, gave birth and unfortunately passed on three days later. The new born child who is the subject of this adoption proceedings stayed at the hospital for two and half years. She was committed to St. Patrick Nomadic Children's home on 26<sup>th</sup> June 2013 by the Acting Principal Magistrate at Lodwar court vide P&C Case No. 479/2013.
3. On 24<sup>th</sup> November, 2014 the Senior Resident Magistrate at Lodwar Court made an order committing the child to Happy Life Children's Home for care and protection. The child's report was made to the Lokitaung Police Station vide letter dated 22<sup>nd</sup> January, 2015 and OB No. [Particulars withheld]. A second letter dated 6<sup>th</sup> November 2015 from Lokitaung Police Station indicates that no one has ever come forward to claim the child.
4. The child was declared free for adoption on 14<sup>th</sup> November, 2015 by the Change Trust, vide certificate No. [Particulars withheld]. She was released into the custody of the Applicants for mandatory foster care pending adoption on 23<sup>rd</sup> November 2015 by Happy Life Children's Home, upon their signing a Foster Care Agreement dated the same day. Since then she has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenya Children's Home Adoption Society, an adoption society, prepared and filed a report in court.
5. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child.

6. The Director of Children's Services also filed a report dated 8<sup>th</sup> August, 2016 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the daughter of the Applicants and growing up in a family setting rather than growing up in an institution. The guardian ad litem, M/s. C K M also filed a report that was favourable and recommended the adoption of the child by the Applicants.

7. The child was in court during the hearing and appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants. Both Applicants' families support the adoption.

8. Of note is that, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

**“A child's best interests are of paramount importance in every matter concerning the child.”**

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

9. I note also that this is a local adoption and the Applicants, in my opinion have fulfilled the requirements for local adoption under the Children Act, 2001. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter. Secondly, they meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought.

10. From the foregoing, this court has formed the opinion that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 30<sup>th</sup> April 2011 and order as follows:

- i. The Applicants, J M O and P L W are hereby allowed to adopt **Baby E A** who shall henceforth be known as **E O A O**.
- ii. Her date of birth is 18<sup>th</sup> December, 2010 and the place of birth shall be Kakuma in Lodwar.
- iii. S W (sister to the female Applicant) is hereby appointed the legal guardian of the child in the event that the Applicants die or are incapacitated by ill-health.
- iv. The Registrar General is directed to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED and DELIVERED** in open court this **11<sup>th</sup> day of August 2016**.

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**L. A. ACHODE**

**JUDGE**