



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**ADOPTION CAUSE NO. 11 OF 2014**  
**IN THE MATTER OF THE CHILDREN ACT**  
**AND**  
**IN THE MATTER OF BABY J.W. A MINOR**

S.O. ....1<sup>ST</sup> APPLICANT

S.O. ....2<sup>ND</sup> APPLICANT

**JUDGMENT**

1. The applicants herein **S.O** and **S.O.** are Kenyan citizens residing in [Particulars Withheld] Town in Migori County. They practice Christianity and were married under the Luo Customary Law. The applicants do not have any biological child of their own. The applicants want to adopt baby J.W. and they made a joint adoption application to New Life Home Trust- Kisumu on 24<sup>th</sup> January 2013. The applicants were assessed and found to be suitable to adopt a child by the adoption officer and director.

2. The date of birth of baby J.W. who is the subject of these adoption proceedings is unknown because he was found abandoned at Lolwe – Migosi estate on 1<sup>st</sup> June 2011 but his date of birth was estimated to be on 26<sup>th</sup> January 2011. The baby was rescued by 2 boys who reported the matter to a good Samaritan one Mr. Koga who in turn took the baby to Kondele Police Station where the incident was booked in Occurrence Book entry No. [Particulars Withheld]. The baby was then admitted at New Nyanza Provincial Hospital before the was placed under the care and custody of New Life Home Trust – Kisumu on 6<sup>th</sup> June 2011 vide Protection Care Case Number 176/2011 at Senior Resident Magistrates Court at Winam for a period of 3 years with the help of Kisumu District Children’s Office.

3. During the baby’s stay at New at New Life Home Trust , no parent or relative turned up to claim him and neither was any information received from the hospital, children’s department or the police regarding the existence of any claimants of the child.

4. On 24<sup>th</sup> January 2013, the child was discharged from the New Life Home Trust – Kisumu and placed into the care of the applicants for compulsory foster care pending adoption. The child has been in the care of the applicants from 24<sup>th</sup> January 2013 to-date.

5. On 23<sup>rd</sup> January 2013, the Case Committee of Little Angels Network deliberated on the adoption of the child and were satisfied that he was free for adoption and that an adoption would be in his best interest. **A certificate Number 001203** dated 23<sup>rd</sup> January 2013 declaring the child free for adoption pursuant to **Section 156 (1) of the Children Act and Regulation 16 of the Adoption Regulations 2005 (Legislative**

**Supplement No. 21).**

6. This court has perused the report prepared by the Little Angels Network, the local adoption society, which report favours and recommends the adoption and the applicants suitability to adopt the child. This case refers to a local adoption for which the applicants have been found suitable and they have had the custody of the said child from 24<sup>th</sup> January 2013 to-date during which period they have bonded with the child.

7. During the hearing of this case on 25<sup>th</sup> October 2016, the 2<sup>nd</sup> applicant appeared in court together with the child while the 1<sup>st</sup> applicant was reported to have been engaged in another court case in which he claims sugar cane proceeds from Sony Sugar Company. I was able to observe the child and the 2<sup>nd</sup> applicant and I noted that they have bonded quite well and that the child is very comfortable in the hands of the 2<sup>nd</sup> applicant.

8. The 2<sup>nd</sup> applicant informed the court that she is employed as a secretary with a law firm in Migori town while her husband is a Principal in one of the schools in Migori County. The 2<sup>nd</sup> applicant stated that they are emotionally and financially capable of taking care of the needs of the child who was already attending school at an Academy in Migori.

9. The 2<sup>nd</sup> applicant nominated her sister D.A.O and her husband K.O.A to be guardians ad- litem of the child in the event that a misfortune/death befell her and her husband. The applicants stated that they would like to call the child J.O.S. in the event that they are granted the adoption orders.

10. In the premises, this court finds that the applicants have met the criteria set for local adoptions. Consequently, the applicants herein, S.O. and S.O are hereby authorized to adopt baby J.W. who shall henceforth be known as J.O.S. His date of birth shall be 26<sup>th</sup> January, 2011. His place of birth shall be in Kisumu County. He is therefore presumed to have been born in Kenya. D.A.O and K.O.A the sister and brother in law of the 2<sup>nd</sup> applicant are hereby appointed to be legal guardians of the child in the event of a misfortune such as death befalling the applicants.

11. The registrar General is hereby directed to enter this order in the adoption register. The guardian ad litem is hereby discharged.

12. It is so ordered.

**Dated, signed and delivered in open court this 14<sup>th</sup> day of December, 2016**

**HON. W. A. OKWANY**

**JUDGE**

**In the presence of:**

- Mr. Moracha for the Petitioner
- Omwoyo court clerk