

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

ADOPTION CAUSE NO. 3 OF 2014(OS)

IN THE MATTER OF ADOPTION UNDER SECTION 154 OF THE CHILDRENS ACT, 2001

AND

IN THE MATTER OF ADOPTION OF BABY SM AGED 5 YEARS

BY

BOA AND JAA..... APPLICANTS

JUDGMENT

1. The applicants **BOA** and **JAA** are seeking to be authorized to adopt baby **SM** and upon making the adoption the child be called **JAA**. They also seek that **EOO** and his wife **LAO** be appointed the Guardian ad Litem to baby **SM**.
2. The applicants are Kenyan citizens born in 1968 and 1971 respectively. The parties formalised their marriage at the Attorney General's Chambers in Kisii Central on 1st October 2010.
3. The child was abandoned on 28th August 2009 at Kisumu East District Hospital. The child was admitted in ward two at the hospital and while undergoing treatment, the mother absconded from the ward leaving him alone. The matter was then reported to police vide Occurrence Book number [particulars withheld]. The hospital authorities then relayed the child's abandonment incident to Kisumu District Children's Office for home placement of the child. On 30th September 2009 the child was presented before the Children's Court at Winam for committal into the custody of New Life Home Trust-Kisumu vide protection and care case number 260/2009 and was thereafter released in the care of the home. The final letter from the Child Protection Unit within the Kisumu Police Station dated 19th July, 2010 indicated that their efforts to trace the biological parents of the said child had been unsuccessful and no claimant had surfaced to the station to claim the child. The child was declared free for adoption on 21st July, 2010 and issued with a certificate of declaring a child free for adoption serial Number [particulars withheld]. The child was committed to the applicants for care and custody on 15th November, 2010 and has been with the applicants to date.
4. The Little Angels Network has filed a home study report dated 13th October, 2013. The report reveals that the applicants have no chronic illness and have received support from their extended family members. The applicants also have no criminal record and have both attended a pre-adoption counselling. The report further indicates that the applicants are financially capable to provide for the child, that they are mature, responsible and emotionally capable of taking care of the child since they have the support of their wider family members. The report recommends the adoption.
5. On 24th October, 2016 the 2nd applicant herein **JAA** gave oral evidence before this court. She told the court that her husband the 1st applicant herein **BO** was in Nairobi where he works but had fully consented to these proceedings. She told the court that the child herein is known as **SM** but they renamed him **JAA**. That they adopted him from Little Angels Home in Kisumu and have stayed with him for a period of 7years. She further stated that the biological parents of the child are unknown as he was abandoned while undergoing medical treatment at Kisumu Hospital.

6. She further stated that she is a teacher by profession employed by the Teachers Service Commission on permanent and pensionable basis and her husband is an engineer in a private firm in Nairobi hence they are both in a position maintain the child. She appointed brother **EOO** and his wife **LO** as guardians. She prayed that a certificate of adoption do issue so that the child can get a birth certificate. Lastly she stated that the child currently attends School and is in standard one

7. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements relating to the adoption of the child. This court is satisfied that the applicants are qualified and able to take care of the child. I allow the application for adoption. The Applicants **BOA** and **JAA** are hereby allowed to adopt **SM** and he shall be known as **JAA, EOO** and his wife **LAA** are hereby appointed as the guardians of the child. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya, he is therefore a Kenyan by birth and is entitled to all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya Citizenship and Immigration Act. The guardians' ad litem are hereby discharged. It is so ordered.

Dated, signed and delivered in open court this 13th day of December, 2016

HON. W. A. OKWANY

JUDGE

In the presence of:

Mr. Moracha for the Petitioner

Omwoyo court clerk