



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE 01 OF 2014(O.S)**

**IN THE MATTER OF ADOPTION UNDER SECTION 154 OF THE CHILDREN ACT**

**AND**

**IN THE MATTER OF ADOPTION OF E.A AGED 2 YEARS.**

**BY**

**MR.FAO AND MRS. MAA.....APPLICANTS**

**JUDGMENT**

1. The applicants **FAO** and **MAA** are seeking to be authorized to adopt baby **EA** and upon making the adoption the child be known as **ENAA**. They also pray that **SAO and LAO** be appointed the legal guardians of the child.
2. The applicants are Kenyan citizens born in 1968 and 1973 respectively. The parties were married customarily in February 1992 and later swore an affidavit of marriage on 4<sup>th</sup> August 2004. However, Francis later took a second wife whom he married customarily in August 2011.
3. The baby herein was abandoned by an unknown person at Nyalenda Estate in a homestead of one B O at around 2.00a.m on 9<sup>th</sup> March, 2012. The said B O rescued the child and reported the incident at Central Police Station on the same day, whereby the matter was recorded vide Occurrence Book number 19/9/3/2012. The child was later taken to New Life Home Trust- Kisumu and was committed by Senior Resident Magistrate at Winam in Kisumu vide Protection and Care case number 253/2012 for a period of 3 years on 6<sup>th</sup> June, 2012 . The final letter from the Department of Kenya Police dated 13<sup>th</sup> September, 2012 indicated that efforts to trace the child's biological parents had been fruitless. The child was declared free for adoption on 3<sup>rd</sup> October 2012 and a certificate of declaring a child free for adoption was issued which was serial number *[particulars withheld]*. The child was committed to the applicants for care and custody from 22<sup>nd</sup> October, 2012 to date.
4. The Little Angels Network filed a pre placement home study report dated 20<sup>th</sup> June, 2012. The report reveals that the applicants have no chronic illness and that they 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 reveals the applicants are financially capable to provide for the child. That they are mature, responsible and emotionally capable of taking care of the child and they have the support of their wider family members. The report recommends the adoption.
5. On 24th October 2016, the 1<sup>st</sup> applicant herein **FAO** gave oral evidence before this court and stated that they got the child from New Life Family home on January 2012 when child was about nine (9) months old. The child has been with the applicants since then and he is currently attending nursery school in Rongo town. He further stated that no one has claimed for the child since they started living with him. The 1<sup>st</sup> applicant stated that he is a teacher by profession employed by the Teachers Service Commission, and a part time lecturer at a Teachers Training College. He further revealed that he has a daughter aged about nineteen years from a different mother. He also stated that he wished to call the child **ENA**. He prayed that this court grants them an adoption order so that the child can be their legal son to enable them process his birth certificate which will be a crucial document in registering him for school. Lastly, he

proposed SO and LO to be made guardians of the child.

6. This is a local adoption and 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 **FAO** and **MOA** are hereby allowed to adopt **EA and** he shall be known as **ENAA. SOO** and **LAO** shall be appointed legal guardians to the child. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and 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. I hereby discharge the Guardian *ad litem*. It is so ordered.

**Dated, signed and delivered in open court this 13<sup>th</sup> day of December, 2016**

**HON. W. A. OKWANY**

**JUDGE**

**In the presence of:**

Mr. Moracha for the Petitioner

Omwoyo court clerk