

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 79 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY T R H alias A BABY BOY - MINOR

P K G.....1ST APPLICANT

H M G.....2ND APPLICANT

J U D G M E N T

The applicants, P K G and H M G, are husband and wife. They were married on 7th July 2001 in Toronto, Canada. The applicants are citizens of Canada. They are teachers by profession currently employed at *[particulars withheld]* Academy in Nairobi. The Applicants have not been blessed with children of their own due to medical reasons. They have been residents in Kenya since 2007. They have therefore made this application as foreign residents in Kenya. This is under the Rule that allows foreigners who have been in Kenya for a period of more than three (3) years to adopt a child as such. The Applicants wish to adopt a child. Baby T R H alias A Baby Boy (the child) was presumed to have been born on 7th August 2005. The child was found abandoned on 12th October 2005 at Barisheba area in Kisauni, Mombasa. A report of the abandonment was made on the same day to Nyali Police Station. The child was taken to Coast Province General Hospital for care and treatment. He was discharged from the hospital and taken to A.I.C Riziki Children's Home for care and protection. He was committed by the Mombasa Children's Court to the custody of the said Children's Home on 28th October 2005 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption on 22nd December 2008. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 26th March 2014. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, J N M, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is an adoption by foreign residents in Kenya. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants his parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants' application for adoption. The applicants, P K G and H M G, are hereby allowed to adopt Baby T R H alias A Baby Boy. Henceforth, the child shall be known as T R T E G. His date of birth shall be 7th August 2005. His place of birth shall be Mombasa, Kenya. He is presumed to be

a citizen of Kenya by birth. S M and S M, the sister and brother-in-law respectively of the 2nd applicant shall be the legal guardians of the child should such eventuality arise. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It is so ordered.

DATED AT NAIROBI THIS 30TH DAY OF JANUARY , 2015

M. MUIGAI

JUDGE