



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 135 OF 2014**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY J**

**E C J.....1<sup>ST</sup> APPLICANT**

**C A O.....2<sup>ND</sup> APPLICANT**

**J U D G M E N T**

The applicants, E C J and C A O, are husband and wife. They were married under Luo customary law on 23<sup>rd</sup> August 2005. They formalized their marriage on 4<sup>th</sup> December 2012 when they were married at the Registrar's Office in Nairobi. The 1<sup>st</sup> applicant is employed as a senior program officer with *[particulars withheld]* while the 2<sup>nd</sup> applicant is employed by the *[particulars withheld]* as an accountant. The Applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby Juanita (the child). The child was presumed to have been born on 18<sup>th</sup> August 2011. She was found abandoned on 17<sup>th</sup> July 2012 by a good Samaritan in Transami within Embakasi area in Nairobi. A report was made on 18<sup>th</sup> July 2012 to Embakasi Police Station. The child was then placed with Thomas Barnardo House for care and protection. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 24<sup>th</sup> September 2012 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 2<sup>nd</sup> April 2013. They took custody of the child on the same day. 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, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 12<sup>th</sup> February 2013. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, N M 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 a local adoption. 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. 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 her 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, E C J and C A O, are hereby allowed to adopt Baby J. Henceforth, the child shall be known as S A A J. Her date of birth shall be 18<sup>th</sup> August 2011. Her Place of birth shall be Nairobi- Kenya. She is therefore presumed to be a citizen of Kenya by birth. J A O and M S M, the sister and brother-in-law respectively to the 2<sup>nd</sup> 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 23<sup>RD</sup> DAY OF JANUARY, 2015**

**M. MUIGAI**

**JUDGE**