



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 276 OF 2014**

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

**AND**

**IN THE MATTER OF BABY L V ALIAS BABY E K - MINOR**

**J M O.....1<sup>ST</sup> APPLICANT**

**M B D.....2<sup>ND</sup> APPLICANT**

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

The Applicants Jan M O and M B D are nationals of Sweden. They were married on 15<sup>th</sup> August, 2007. The 1<sup>st</sup> Applicant is a Program Manager and the 2<sup>nd</sup> Applicant Lecturer in Sweden. They have been residents in Kenya intermittently since 2011. The Applicants have so far not been blessed with any children of their own due to medical reasons but have adopted their son A L O from Kenya at the High Court Nairobi on 25<sup>th</sup> July, 2011. They wish to adopt another child, Baby L V.

The Applicants approached the relevant authorities in Sweden with a view to securing the requisite approvals to enable them adopt a child, specifically a foreign child. A home study report was prepared by Little Angels Network an accredited adoption service provider in Kenya. The Applicants were on 15<sup>th</sup> April, 2013 approved by the Social Welfare Committee, Gotland, Sweden and the Municipal Social Welfare Committee Gotland, Sweden, on 16<sup>th</sup> July, 2013. They were further approved by Swedish Inter Country Adoptive Authority and Swedish Migration Board. Under the Swedish Government adoption laws it is said local authority which has jurisdiction to approve the application by the applicants to adopt a child.

The National Adoption Committee of Kenya duly approved the Applicant's application to adopt a child in Kenya. The approval certificate to that effect was issued on 22<sup>nd</sup> June, 2014.

Baby L V alias Baby E K, the child, the subject of these adoption proceedings was born 16<sup>th</sup> February, 2013 at Vihiga District Hospital. The child was given up for adoption voluntarily by the mother called L who willingly signed her consent document to the adoption of the child which was witnessed by her guardian M M, both of **[particulars withheld]** Village, **[particulars withheld]** Sub-location, Chavakali location, Sabatia District.

The Baby was discharged from Vihiga District Hospital and the Vihiga District Children Officer placed the child in Strings Life Children Home - Bukura for care and protection. She was committed by the Children's Court at Vihiga to the custody and care of the said children's home by a Court order, on 16<sup>th</sup> May, 2013. The child was placed under the custody of the applicants on 25<sup>th</sup> August, 2014 compulsory foster care. Since then, the child has been under the continuous care and Custody of the Applicants. Little Angels Network Homes an adoption society, issued a certificate declaring the child free for adoption. The certificate dated 26<sup>th</sup> February, 2014.

The court read the reports prepared by Little Angels Network, the local adoption society, the Director of

Children's Services and by R M N, the guardian ad litem. All the above reports are favourable and recommend the applicants' application to adopt the child. This is an international adoption. There are certain conditions that the applicants must fulfill before this court can allow them to adopt the child. The first condition is that the applicants must be approved by the relevant adoption authorities in their country of origin. In the present case, the applicants have been assessed and approved by the relevant authorities in their country of origin, Sweden to adopt a foreign child, and specifically a Kenyan child. The second condition is that the applicants must be approved by the National Adoption Committee in Kenya to adopt a child in Kenya. The applicants have been assessed by the said National Adoption Committee. A certificate has been issued by the said committee approving the applicants' application to adopt a child in Kenya. The third condition is that the applicants must satisfy the court that they have fulfilled the legal requirements regarding the adoption, including having custody of the child for a sufficient period to enable bonding to take place. This period must not be less than three (3) months. It was clear to the court that the applicants have fulfilled all the legal requirements in respect to international adoption. The applicants have had the custody of the child since 24<sup>th</sup> August, 2014. In the period that the child has been in their custody, the child has bonded with them. This was evident from the reports prepared by the Director of Children's Services, the guardian ad litem and the local adoption society. The applicants have established that they have the financial and emotional capability to take care of the child.

Having evaluated all the reports on record, and the applicants' application seeking to be granted permission to adopt the child, it was clear to this court that it would be in the best interest of the child for the application for adoption to be allowed. The applicants have given an undertaking that they shall allow access to the approved adoption society in their country of origin to undertake post-adoption supervision for a period of three years from the time of the issuance of this adoption order. The applicants have executed an undertaking that if this court grants the adoption order, they will permanently assume all the parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them in their marriage; they have been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that they shall adopt; that the child shall have the right to inherit their property; that an adoption order cannot be recanted, and further, that they shall not give up the child owing to any subsequent unforeseen behaviours or other changes in the child; that the adoption society in the (Swedish Inter-Country Adoption Authority) shall provide annual follow up reports on the progress of the child to the adoption society in Kenya (local adoption society) for a period of three (3) years from the date of the arrival of the child in Sweden; that the applicants undertake to allow the representatives of the Swedish Inter-Country Adoption Authority free access to the child at any reasonable time. The applicants further give an undertaking that they shall accord their citizenship to the child.

In the premises therefore, this court finds that the applicants have met the criteria set for international adoptions. The applicants, J M O and M B D are hereby authorized to adopt Baby L V alias Baby E K. The child shall henceforth be known as E V O. His date of birth shall be 16<sup>th</sup> February, 2013. Her place of birth shall be Vihiga District, Kenya. T E and A L close friends to the applicants are hereby appointed to be the legal guardians of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

**DATED AT NAIROBI THIS 23<sup>RD</sup> DAY OF JANUARY, 2014**

**M. MUIGAI**

**JUDGE**