

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 136 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY P A *alias* P W (MINOR)

G K M.....1ST APPLICANT

J S L.....2ND APPLICANT

J U D G M E N T

The applicants, G K M and J S L, are husband and wife. They were married under customary law on 9th December 2006. The 1st applicant is a businessman while the 2nd applicant is employed as an administrator by the *[particulars withheld]*. The Applicants have been blessed with two biological children of their own born on 24th May 1999 and 26th December 2003 respectively. The 2nd applicant has two (2) children from a previous marriage, who are now adults. The four (4) children have given their consent to the applicants to adopt a child. They have applied to this court to be allowed to adopt baby P A *alias* P W (the child). The child was born on 19th July 2012 at Nyahururu District Hospital to one E W. The child was abandoned by his biological mother on 27th July 2012 when she absconded from the hospital. A report on the abandonment was made to Nyahururu Police Station on 23rd August 2012. The District Children Office, Kiambu was informed of the incident and managed to secure placement for the child at New Life Home Trust. He was committed by the Nyahururu Children’s Court to the custody of the said children’s home on 28th August 2012 pending formal adoption proceedings. The child was admitted at the said children's home on 30th August 2012 for care and protection. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 10th July 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. Little Angels Network, an adoption society issued a certificate declaring the child free for adoption. The certificate is dated 5th June 2013.

Prior to the hearing of the adoption, the adoption society, Buckner Kenya Adoption Services, prepared a report which is filed in court. The Director of Children’s Services has also prepared a report which is on record. The guardian ad litem, S O O, 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 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, G K M and J S L, are hereby allowed to adopt Baby P A *alias* P W. Henceforth, the child shall be known as N P A K. His date of birth shall be 19th July 2012. His place of birth shall be Nyahururu District Hospital, Nyahururu-Kenya. He is presumed to be a Kenyan citizen by birth. Irene Lempaka, a sister to the 2nd applicant, shall be the legal guardian 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 23RD DAY OF JANUARY , 2015

M. MUIGAI

JUDGE