



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 5 OF 2015 (O.S.)**

**AND**

**IN THE MATTER OF CHILDREN'S ACT, No. 8 of 2001**

**AND**

**IN THE MATTER OF BABY M A**

**L S J.....1<sup>ST</sup> APPLICANT**

**AND**

**S S J.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The Applicants, **L S J** and **S S J** are of Danish origin and in a monogamous marriage which was solemnized at the Danish National Church, Vorgod Kirke Vorgod Sogn, Ringkøbing-Skjern Kommune on 26<sup>th</sup> June, 2010. They have no child of their own. They have brought an Originating Summons dated 20<sup>th</sup> November, 2014 seeking permission to adopt baby **M A**, an infant of male sex. **L S J** is a Technician with *[particulars withheld]* Company, while **S S J** is a Teacher/Social Worker with *[particulars withheld]* School. They reside in Kilimani *[particulars withheld]* Court, Nairobi and are both Christians of the Lutheran Church.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy within Kitengela Township on 19<sup>th</sup> August 2013. The matter was reported at Kitengela Police Station and an entry made vide OB No. 7/20/8/2013. On 20<sup>th</sup> August, 2013 the child was admitted to Mahali Pa Maisha Children's Centre, Kitengela for care and protection. On 25<sup>th</sup> October, 2013 the child was officially committed to the same Children's Centre by the Resident Magistrate Children's Court Naivasha, vide P&C Case No. 14/2013. A letter dated 26<sup>th</sup> February, 2014 from Kitengela Police Station confirms that the biological parents of the child were not traced nor did anyone come forward to claim the child.
3. The child was declared free for adoption on 21<sup>st</sup> May, 2014 by the Kenya Children's Home Adoption Society vide certificate No. *[particulars withheld]*. He was released into the custody of the Applicants for mandatory foster care pending adoption on 9<sup>th</sup> October 2014. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenya Children's Home, an adoption Society prepared and filed a report in court.

4. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. The Director of Children's Services filed a report dated 25<sup>th</sup> February 2015 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming the son of the Applicants, as opposed to living all his life in an institution. The guardian ad litem, M/s. L J K also filed a report that was favourable and recommended the adoption of the child by the Applicants.
5. The Danish Ministry of Social Affairs, Children and Integration, The Division of Family Affairs, National Social Appeals Board, Central Authority in Denmark, in accordance with the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption of May 29<sup>th</sup> 1993, confirmed that the above Applicants have been approved by the Danish authorities. According to a Communique from the said office dated 9<sup>th</sup> January, 2014, and annexed to the originating summons a Kenyan adoption would be recognised immediately in Denmark and the Danish Embassy in Nairobi will have authority to issue the child with a Danish passport upon presentation of the adoption order. The child will at the same time obtain Danish citizenship.
6. The proposed adoption also received local approval by the Kenya Children's Home Adoption Society and by the Adoption Committee meeting held on 22<sup>nd</sup> July, 2014 vide approval certificate No. *[particulars withheld]* dated 19<sup>th</sup> August, 2014.
7. From the foregoing I am satisfied that all the legal requirements for an international adoption have been met, and consequently I will make the following orders:
  - a. That the Applicants, L S J and S S J, are hereby allowed to adopt Baby **M A**, who shall be hereinafter known as **J A S J**;
  - b. His date of birth shall be presumed to be 19<sup>th</sup> August, 2013.
  - c. He is presumed to have been born in Kenya and the place of birth shall be Kitengela Township.
  - d. That H G P and S G (sister and brother in law to the male Applicant) respectively are hereby as appointed the legal guardian of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
  - e. That the Registrar-General is directed to enter this adoption order in the Adoption Register;
  - f. That the child is presumed to be Kenyan by birth.
  - g. That the Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED** and **DELIVERED** in open court this **17<sup>th</sup> day of April 2015.**

.....

**L. A. ACHODE**

**JUDGE**