

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 192 OF 2012 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF M

JUDGEMENT

1. The applicants, J M P and V K M, are of Kenyan nationality. By their Originating Summons dated 12th September 2012, they seek to adopt a female child called Martina.
2. The subject child, M, was found abandoned as a one day old on 12th November 2009. A report of the abandonment was made the same day at the Kariobangi Police Post, which falls within the command of the Muthaiga Police Station. The parents and relatives of the child could not be traced, and the child was subsequently admitted at the Missionaries of Charity Children's Home, where she was eventually committed by the Nairobi Children's Court. The child was placed with the applicants on 21st January 2011 and she has been with them since then.
3. This adoption has been arranged by the Kenya Children's Homes adoption agency. The said adoption agency declared the child free for adoption through their certificate of 31st December 2010.
4. To facilitate this adoption, the applicants have been assessed by the Kenya Children's Homes adoption agency, the guardian *ad litem*, M N M, and the Director of Children Services. All three have compiled and filed their reports in court. The report by the Director of Children Services is dated 12th September 2014, while that by the Kenya Children's Homes adoption agency is dated 21st September 2012. The report of the guardian *ad litem* is undated.
5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with them and she considers them to be her parents.
6. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter become a useful member of the family and society in general. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
7. I find that the application before me has merit and I hereby allow the applicants, J M P and V K M, to adopt M to be known hereafter as M M M. I hereby appoint E M N the child's legal

guardian should misfortune befall the applicants during the child's minority. The child is hereby presumed to be Kenyan by birth as she was found abandoned within Kenyan borders. I direct the Registrar-General to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.

Dated, signed and delivered at Nairobi this 17th day of April 2015.

W MUSYOKA

JUDGE

In the presence of Ms. Kilonzo advocate for the applicants.