



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**ADOPTION CAUSE NO. 96 OF 2015 (OS)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**IN THE MATTER OF ADOPTION OF BABY E L**  
**BY**  
**A M M (APPLICANT)**  
**JUDGMENT**

1. The Applicant A M M is a Kenyan citizen. She is a divorcee and has one adopted child namely M M, aged 5½ years. She wishes to adopt the child known as Baby E L, a minor of the male sex through the Originating Summons dated 9<sup>th</sup> April 2015. The Applicant indicates that she is a teacher with the Teachers Service Commission. She resides at Mwingi County.

2. The child who is the subject of this adoption was found having been abandoned at infancy at Fikiria Clinic within Patanisho Estate on 7<sup>th</sup> February 2012 by unknown person(s). The matter was reported to Soweto Police Station, via OB No. 58/7/2/2012. He was later referred to Imani Nairobi Children's Home, Nairobi for care and protection. On 5<sup>th</sup> October 2012 the Resident Magistrate court at Nairobi committed the child to the same home vide P&C Case No. 431/2012. A letter from Soweto Police Station dated 25<sup>th</sup> October 2012 asserts that the biological parents of the child were not traced nor did anyone come forward to claim the child. The administration of Imani Children's Home gave their consent towards this proposed adoption in an affidavit dated 9<sup>th</sup> April, 2015.

3. On 3<sup>rd</sup> September, 2014 the child was discharged from Imani Children's Home and placed in the care of the Applicant with a view to adoption. The Applicant also signed a Foster Care Agreement dated the same day. Since then the child has been in the continuous custody and care of the Applicant.

4. Prior to the hearing of the adoption application, Kenyan to Kenyan Peace Initiative, an adoption society prepared and filed a report in court. They also issued a certificate No. 286 dated 28<sup>th</sup> November 2012 declaring the child free for adoption. The guardian ad litem, M/s. Ruth Ndunge Mutunga filed a report dated 25<sup>th</sup> August, 2015 which was favourable and recommended the adoption of the child by the Applicant.

5. The Director of Children's Services has also made home visits and established that the Applicant is financially and emotionally capable of providing for the up keep and education of the child. She filed a report dated 19<sup>th</sup> August, 2015 recommending the adoption for reasons that the child stands to gain from

the opportunities provided by becoming the son of the Applicant as opposed to living all his life in an institution.

6. The child was in court during the hearing and appeared to have bonded well with the Applicant. He was jovial and clearly seemed to trust the Applicant. He regarded her as his parent. The Applicant's family members including her uncles and aunts are aware of this second adoption and support it.

7. After a careful assessment of the reports filed herein and from the observation of the interaction of the Applicant and the child during the hearing, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. The Applicant being aged 52 years old, she is older than the child by more than 21 years as required by the law.

8. That being the matrix of this matter, I allow the prayers sought in the Originating Summons dated 9<sup>th</sup> April 2015 and order as follows:

- i. The Applicant, A M M is hereby allowed to adopt baby **Baby E L** who shall henceforth be known as **EMM**.
- ii. His date of birth shall be presumed to be 7<sup>th</sup> December, 2011 He is presumed to have been born in Kenya and the place of birth shall be Nairobi.
- iii. FN M and RCM (brother and sister to the Applicant) respectively, are hereby appointed legal guardians of the child in the event that the Applicant dies or is incapacitated by ill-health.
- iv. I direct the Registrar General to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED** and **DELIVERED** in open court this **4<sup>th</sup> day** of **December 2015**.

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**L. A. ACHODE**

**JUDGE**