



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 195 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY J A [MINOR]

JUDGEMENT

1. The applicants, L J and K E J, are residents of Sweden. They are a married couple. They have brought an Originating Summons dated 2<sup>nd</sup> September 2013 asking for leave to adopt Baby J A [minor].
2. The subject of these adoption proceedings, Baby J [minor], is male. He was found abandoned *in particulars withheld* in the Nakuru County by unknown persons. He was rescued by good Samaritans, who took him and reported the matter at the Gilgil Police Station. He was taken to the African Gospel Church Baby Centre at Nakuru for care and protection. Police records indicate that efforts to trace the parents of the child were fruitless. The Children's Court formally committed her to the African Gospel Church Baby Centre, from where he was placed with the applicants on 31<sup>st</sup> May 2013.
3. The Kenya Children's Homes adoption agency has prepared a background report on the circumstances of the subject child. The report is dated 24<sup>th</sup> September 2013 and was filed in court on 4<sup>th</sup> October 2013. The adoption society freed the child for adoption on 16<sup>th</sup> October 2012.
4. To facilitate the adoption the applicant has been assessed by the guardian *ad litem*, E A N and the Director of Children's Services. The two have compiled and filed their reports in court. The Director of Children's Services' report is dated 18<sup>th</sup> November 2013, while that of the guardian *ad litem* is undated. There is also an international adoption home study report by the Municipal Social Welfare Committee of Stockholm, Sweden, dated 7<sup>th</sup> March 2012.
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 the applicants and considers them to be his parents.
6. This proposed adoption has been approved by the Stockholm Social Welfare Committee in Sweden. The certificate of consent is dated 19<sup>th</sup> September 2012. According to the Act on Swedish Citizenship, section 3, valid foreign adoptions by Swedish citizens conforming to The Hague Convention lead to grant Swedish citizenship. According to the Swedish Intercountry Adoptions Authority, their document is dated 27<sup>th</sup> November 2008; a foreign adoption which accords with the Hague Convention entitles the adopted child to Swedish residency. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, conveyed by a certificate dated 20<sup>th</sup> March 2013.

7. In the opinion of this court it would be in the interests of the child that the child 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 be a useful member of the family. 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 he 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.
8. I am satisfied that all the legal requirements for an international adoption have been met. The court allows the applicants' application to adopt the child. The applicants, L J and K E J, are hereby allowed to adopt the child, Baby J A[*minor*], who shall be hereafter known as J J [*minor*]. K R von S and E A G M. von S are hereby appointed the legal guardians of the child should misfortune befall the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
9. The child was found abandoned within the Nakuru County in the Republic of Kenya, he shall be presumed to be Kenyan by birth in accordance with the provisions of the Kenya Citizenship and Immigration Act.

DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>st</sup> DAY OF January, 2014.

**W. MUSYOKA**

**JUDGE**