

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 217 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY J alias M

JUDGEMENT

1. The applicants, W C and M G, are a married couple from Italy. They have brought an Originating Summons dated 19th September 2013 seeking leave to adopt a Kenyan child called Baby J alias M.
2. Baby J alias M, the subject of these adoption proceedings, was abandoned by his mother at the Kiambu District Hospital on 25th November 2011. The matter was reported at the Kiambu Police Station on 14th December 2011. The subject child was admitted at the Happy Life Children's Home, Nairobi, for care and protection, where he was later committed by the local Children's Court. It is from the institution that he was placed with the applicants on 17th June 2013 for adoption purposes. Her parents have not been traced to date
3. There is sufficient documentation which supports this background, prepared by and filed in court on 10th October 2013 by the KKPI Adoption Agency and contained in a report dated 18th September 2013. The KKPI Adoption Agency freed the child for adoption purposes and there is a certificate to that effect filed in court dated 27th March 2013.
4. To facilitate the adoption the applicant has been assessed by the guardian *ad litem*, M M M, and the Director of Children's Services, who have compiled and filed their reports in court. The report of the Director of Children's Services is dated 18th November 2013, while that of the guardian *ad litem* is undated. There is also a psycho-social report by the Local Health Care Unit, Padua, within the Venice Region of Italy, dated 10th November 2010. All these reports are favourable and recommend the proposed adoption.
5. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child also appears to have bonded well with the applicants and considers them to be his parents.
6. This proposed adoption has been approved by the Children's Court of Venice in accordance with the Italian law. The court issued a decree of eligibility to international adoption dated 4th February 2011. The proposed adoption also received the approval of the National Adoption Committee of Kenya on 20th February 2013, confirmed by a certificate dated 20th March 2013.
7. I have also seen the confirmation from the Associazione Nazionale Pubbliche Assistenze (ANPAS), an Italian based foreign adoption society, dated 13th March 2012, to the effect that a Kenyan adoption order would be received and recognised in Italy and a child so adopted will gain

resident status. The ANPAS has also given the assurance that it would ensure that the child will be protected in the event that something happened to the adoptive parents.

8. 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.
9. I am satisfied that all the legal requirements for an international adoption have been met. The applicants, W C and M G, are hereby allowed to adopt the child, Baby J alias M, who shall be hereafter known as J C. D C and M D are hereby appointed the legal guardians of the child in the event of misfortune befalling the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
10. The child was found abandoned at Kiambu, Kenya, and he is hereby deemed to have been born Kenyan, and therefore entitled to all the rights that accrue to Kenyan citizens under the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.

DATED, SIGNED and DELIVERED at NAIROBI this 16th DAY OF January, 2014.

W. M. MUSYOKA

JUDGE