

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO 205 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY A W alias BABY W M

JUDGEMENT

1. The applicants, O W and K G H W, are a German married couple. Their Originating Summons is dated 10th September 2013 seeks permission to adopt a baby called Baby A W alias Baby W M.
2. Baby A W alias Baby W M was abandoned by his mother at the Nyahururu District Hospital on 10th July 2011. The incident was reported at the Nyahururu Police Station. The Children's Court committed him to the New Life Home Trust, Nakuru, from where he was placed with the applicants on 7th June 2013. His parents have not been traced to date.
3. This adoption process is arranged by the KKPI Adoption Society, who freed the child for adoption purposes by their certificate dated 27th March 2013.
4. The applicant has been assessed by the guardian *ad litem*, S M K, the KKPI Adoption Society, and the Director of Children's Services. These three have compiled and filed their reports in court. The report by the guardian *ad litem* is dated 15th November 2013, while that by the Director of Children's Services is dated 18th November 2013. The report by the KKPI Adoption Society is undated. There is also an international adoption home study report by HELP a child e. V., a German international adoption agency, dated 30th September 2011.
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 HELP a child e. V. in accordance with the German law. The certificate of adoption suitability is dated 4th December 2011. According to the notarised undertaking by HELP a child e. V. filed in this matter, a Kenyan adoption order will be respected and recognised in Germany and the child will be entitled to residency status. The said undertaking is dated 22nd February 2012 The proposed adoption also received local approval on 20th February 2013 through the National Adoption Committee of Kenya, and there is a letter conveying the said approval dated 21st February 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. I will allow the applicants' Originating Summons dated 10th September 2013. The applicants, O W and K G H W, are hereby allowed to adopt the child, Baby A W alias Baby W M, who shall be hereafter known as W P W. S G D K is hereby appointed the legal guardian 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. As the child was found abandoned Nyahururu within the Republic of Kenya, he shall be presumed to be Kenyan by birth. He is therefore entitled to all the rights accruing to Kenyan citizens as set out in 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. MUSYOKA

JUDGE