



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 166 OF 2013**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY J M - MINOR**

**A G O.....1<sup>ST</sup> APPLICANT**

**S S O.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

The applicants, A G O and S S O, are husband and wife. They were married on 6<sup>th</sup> November 2009. The 1<sup>st</sup> applicant is a Kenyan citizen while the 2<sup>nd</sup> applicant is an American. The applicants are missionaries with *[particulars withheld]* Kenya. The applicants have not been blessed with any biological children. They have applied to this court to be allowed to adopt baby J M (the child). The child was born on 2<sup>nd</sup> February 2012 at Kiambu District Hospital. He was abandoned by his mother on 4<sup>th</sup> February 2012 when she absconded from the hospital. A report was made to Kiambu Police Station. The child was discharged from the hospital and taken to Nest Children's Home on 1<sup>st</sup> March 2012. He was committed by the Nairobi Children's Court to the said Children's Home on 27<sup>th</sup> April 2012 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 26<sup>th</sup> February 2013. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 12<sup>th</sup> February 2013. The Director of Children's Services has prepared a report which is on record. The guardian ad litem, S O O, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed that the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants his parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants application for adoption. The applicants, A G O and S S O, are hereby allowed to adopt Baby J M. Henceforth the child shall be known as J M O. S O O and J A O, the maternal uncle and aunt of the male applicant are hereby appointed to be the legal guardians of the child should any misfortune befall the applicants. I direct the Registrar General to enter this order in the Adoption Register. I hereby discharge the guardian ad litem. It is so ordered.

**DATED AT NAIROBI THIS 28<sup>th</sup> DAY OF FEBRUARY, 2014**

**L. KIMARU**

**JUDGE**