

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 229 OF 2012

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J alias T M M- MINOR

E M M.....1STAPPLICANT

D M M.....2NDAPPLICANT

J U D G M E N T

The applicants, E M M and D M M are husband and wife. They were married on 10th April 2012. The 1st applicant is employed as a Procurement Manager at *[particulars withheld]* Limited, Gilgil while the 2nd applicant is a businesswoman. The applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby E W *alias* J (the child). The child was prematurely born on 2nd October 2009 at Kenyatta National Hospital, Nairobi and was admitted at the hospital's new born unit. The child was abandoned by her mother ten days later when she absconded from the hospital. A report on the abandonment was made to Kenyatta Police Post on 15th October 2009. The child was discharged from the hospital and taken to Hope House Babies Home for care and protection. She was committed by the Nairobi Children's Court to the custody and care of the said children's home on 10th December 2010 pending formal adoption proceedings. The applicants were given custody of the child for mandatory foster care on 17th November 2011 pending adoption pursuant to a foster care agreement. They took custody of the child on the same date. Since then, the child has been under the custody and care of the applicants.

Prior to the hearing of the adoption, the Child Welfare Society of Kenya, an adoption society, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 18th June 2012. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, M M K, 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 pertaining 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, E M M and D M M, are hereby allowed to adopt Baby E W *alias* J. Henceforth the child shall be known as T M M. His date of birth shall be 2nd October 2009. His Place of birth shall be Kenyatta National Hospital, Nairobi- Kenya. J N M, shall be the legal guardian of the applicant should such eventuality arise. 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 28TH DAY OF MARCH, 2014

L. KIMARU

JUDGE