



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 296 OF 2013 (OS)**

**AND**

**IN THE MATTER OF THE CHILDREN'S ACT**

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF G H (MINOR)**

**JUDGEMENT**

The applicants, M A M and H K V M K are a married couple of Swedish nationality. They have brought an Originating Summons dated 28<sup>th</sup> November 2013 seeking permission to adopt Baby G H.

Baby G H, the subject of these adoption proceedings, is an abandoned male child. His date of birth is unknown but is estimated to be the 20<sup>th</sup> September 2011. He was born of parents who are not known. He was found abandoned, in Kakamega County near *[particulars withheld]* Secondary School on 15<sup>th</sup> December 2011. A report was made at the Luanda Police station and efforts to trace his parents were not fruitful. The Children's Court later committed him to the New Life Children's Home Trust, from where he was placed with the applicants on 23<sup>rd</sup> August 2013. There is sufficient documentation which supports this background prepared by and filed in court on 24<sup>th</sup> May 2013 by the Little Angels Network adoption society. The Little Angels Network freed the child for adoption by their certificate dated 7<sup>th</sup> November 2012.

To facilitate the adoption the applicant has been assessed by the guardian *ad litem*, M W M and the Director of Children's Services. These two have compiled and filed their reports in court dated 10<sup>th</sup> February 2014, 19<sup>th</sup> March 2014 and 1<sup>st</sup> July 2013, respectively. There is also an international adoption home study report by the Swedish National Board of Health and Welfare dated 21<sup>st</sup> December 2012. 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 on the other hand appears to have bonded well with the applicants and considers them to be his parents.

This proposed adoption has been approved by the Social Welfare Committee of the Nacka Commune in accordance with the Swedish law. Their certificate of consent is dated 1<sup>st</sup> January 2013. According to the Swedish Migration Board document dated 11<sup>th</sup> February 2008 an adoption, such as this which is done in conformity with the 1993 Hague Convention, is recognised by the Swedish law and a child so adopted

acquires Swedish citizenship automatically. This is confirmed by the Act on Swedish Citizenship which provides that adoption of an alien child by a Swedish citizen shall entitle the child to automatic Swedish citizenship. The proposed adoption has also received local approval through the National Adoption Committee of Kenya; an approval certificate is attached dated 24<sup>th</sup> July 2013.

In the opinion of this court it would be in the best interests of 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.

I am satisfied that all the legal requirements have been met and I therefore hereby make the following final orders:-

- a. that the applicants, M A M and H K V M K, are hereby allowed to adopt the child, Baby G H, who shall be hereafter known as D G M;
- b. A G and M G of *[particulars withheld]* Sweden are hereby appointed the legal guardians of the child;
- c. That the Registrar-General is directed to enter this adoption order in the adoption register;
- d. that the guardian *ad litem* is hereby discharged; and;
- e. That the child was found with the Kenyan borders this court declares that he shall be presumed to be Kenya by birth, that he was born on 9<sup>th</sup> September 2011 and the Director of Immigration is directed to issue the said child with a Kenyan passport.

**DATED, SIGNED and DELIVERED at NAIROBI this 26<sup>th</sup> DAY OF May 2014.**

**W. MUSYOKA**

**JUDGE**

**In the presence of the Mrs. Mungai advocate for the applicants.**