

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 259 OF 2012 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY C.L also known as D.B

JUDGEMENT

1. The applicants, R.M.D and R.M.O, are Kenyan citizens. They are a married couple. They seek to adopt Baby C.L alias D.B. Their originating summons is dated 13th November 2012.
2. The child in question was found abandoned on 4th April 2003 within the Nairobi city centre. The matter was reported at the Kamukunjii Police Station. The child was referred the Nairobi Children's Home, and subsequently to the Kiandunyi Children's Home, for care and protection. No one came forward to claim the child, neither were his parents or relatives found. He was placed with the applicants on 4th February 2006. It is estimated that she was born on 3rd January 2000.
3. The child was freed for adoption by the Child Welfare Society of Kenya by their certificate of 1st July 2010.
4. To facilitate this adoption, the applicants have been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, C.A.N. The three have compiled and filed their reports in court. That of the Child Welfare Society of Kenya is dated 1st July 2010, while that of the Director of Children Services is dated 13th January 2014. That of the guardian *ad litem* is dated 11th March 2013.
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 herself appears to have bonded well with them and he considers them to be his parents.
6. In the opinion of this court it would be in the best interests of the child that she 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 she 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.
7. I have noted that although the basic requirements for a local adoption have been met, the

applicants have not proposed anyone for appointment as legal guardians of the child in the vent of misfortune befalling them. For non-kinship adoptions the place of legal guardians is critical as the adopted child may have no one to turn to in the circumstances.

8. Before I make the final orders I direct the applicants to file further papers proposing a person or persons for appointment as legal guardian or guardians of the subject child in the event of any misfortune. This is particularly important considering the age of the applicants. The matter shall be mentioned after thirty (30) days.

DATED, SIGNED and DELIVERED at NAIROBI this 20th DAY OF June, 2014.

W MUSYOKA

JUDGE