



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 89 OF 2014 (OS)**

**AND**

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

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY K.M**

**JUDGEMENT**

1. The applicants, P.M and C.B, are a married couple from Italy. They have brought an Originating Summons dated 21<sup>st</sup> March 2014 seeking leave to adopt Baby K.M.
2. Baby K.M, the subject of these adoption proceedings, was found abandoned in Gikomba, Nairobi 6<sup>th</sup> January 2011. It is estimated that he was born on 19<sup>th</sup> November 2008. A report of the matter was made at the Kamukunji Police Station. The child was thereafter admitted at the Nairobi Children's Home for care and protection, from where he was transferred to the Familia ya Ufajiri Children's Home. The Children's Court later committed him to the said Familia ya Ufajiri Children's Home, from where he was placed with the applicants on 20<sup>th</sup> December 2013 for adoption purposes. Nobody has so far come forward to claim him and the police did not manage to trace his relatives.
3. There is sufficient documentation which supports this background, prepared by and filed in court on 26<sup>th</sup> September 2013 by the Kenya Children's Homes adoption society and contained in a report dated 15<sup>th</sup> November 2013.
4. The Kenya Children's Homes has freed the child for adoption purposes and there is an undated declaration to that effect filed in court on 15<sup>th</sup> November 2013.
5. To facilitate the adoption the applicant has been assessed by the Kenya Children's Homes, the guardian *ad litem*, P.O.O, and the Director of Children's Services, who have compiled their reports dated 3<sup>rd</sup> April 2014, 11<sup>th</sup> April 2014 and 16<sup>th</sup> May 2014, respectively, and have filed them in court. There is also a psycho-social report by the Amici dei Bambini (The Right to be a Child) dated 14<sup>th</sup> November 2012. All these reports are favourable and recommend the proposed adoption.
6. 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.

7. This proposed adoption has been approved by the Children's Court of Rome in accordance with the Italian law. The court issued a decree dated 27<sup>th</sup> September 2011. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 18<sup>th</sup> September 2013.
8. I have also seen the confirmation from the Amici dei Bambini (The Right to be a Child), an Italian based foreign adoption society, dated 14<sup>th</sup> November 2012 that a Kenyan adoption order would be received and recognised in Italy and a child so adopted will acquire permanent resident status. The Amici dei Bambini (The Right to be a Child) has also given the assurance that it would ensure that the child will be protected in the event that something happened to the adoptive parents.
9. 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.
10. I am satisfied that all the legal requirements for an international adoption have been met, and I therefore make the following final orders:
  - a. That the applicants, P.M and C.B, are hereby allowed to adopt the child, Baby K.M, who shall be hereafter known as K.M;
  - b. That L.B and M.C of Via Evemero No. 27 Rome, Italy are hereby appointed the legal guardians of the child in the event of misfortune befalling the applicants;
  - 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;
  - e. That as the child was found abandoned at Nairobi within Kenya, he shall therefore be presumed to be Kenyan by birth and entitled to all the rights that Kenyan citizens enjoy under the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act; and
  - f. That the Principal Immigration Officer is hereby directed to issue the said child with a Kenyan passport.

**DATED, SIGNED and DELIVERED at NAIROBI this 13<sup>th</sup> DAY OF June 2014.**

**W MUSYOKA**

**JUDGE**