



**REPUBLIC OF KENYA**

**HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 105 OF 2014 (OS)**

**AND**

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

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY L B alias BABY C K**

**JUDGEMENT**

1. The applicants, L C v d G and E E E C, are a married couple of Dutch and Belgian nationalities, respectively. They have brought an Originating Summons dated 16<sup>th</sup> April 2014 seeking permission to adopt Baby L B alias Baby C K.
2. Baby L B alias Baby C K, the subject of these adoption proceedings, was born on 22<sup>nd</sup> July 2012 at the Nanyuki District Hospital to C K, who subsequently absconded from the hospital leaving the child behind. The matter of the abandonment was reported at the Nanyuki Police Station. The child was admitted at the New Life Home, Nyeri, for care and protection. The child was placed with the applicants on 17<sup>th</sup> January 2014. All efforts to trace the parents of the child have not been successful.
3. There is sufficient documentation which supports this background prepared by and filed in court on 2<sup>nd</sup> May 2014 by the Little Angels Network dated 5<sup>th</sup> June 2013. The Little Angels Network freed the child for adoption by their certificate dated 5<sup>th</sup> June 2013.
4. To facilitate the adoption the applicant has been assessed by the Director of Children Services and the guardian *ad litem*, M M, both of whom have compiled and filed reports in court. The report by the guardian *ad litem* is dated 30<sup>th</sup> June 2014 and that by the Director of Children Services is dated 8<sup>th</sup> July 2014. There is also an international adoption home study report by the Ministry of Justice, Child Welfare Council, Central and West Brabant Region, Breda Office, The Netherlands, dated 21<sup>st</sup> November 2012.
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 appears to have bonded well with the applicants and considers them to be his parents.
6. This proposed adoption has been approved by the State Secretary of Security and Justice in accordance with the Dutch law. There is a certificate of consent is dated 27<sup>th</sup> November 2012. According to the undertaking by Stichting Africa dated 20<sup>th</sup> November 2012, a Kenyan adoption order will be respected

and recognised in the Netherlands, and the adopted child will gain resident status in the Netherlands. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 16<sup>th</sup> October 2013.

7. The applicants have also identified persons who would step in and act as legal guardians in the event of misfortune, such as death or incapacity, befalling both of them prior to the child reaching the age of majority. The proposed legal guardians, J W B V B and M L M V D G, have executed the requisite letter of consent, which is attached to this Summons, dated 23<sup>rd</sup> May 2013.

8. 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.

9. I am satisfied that all the legal requirements for a resident adoption have been met, and I hereby make the following orders:-

- a. That the court allows the applicants, L C v d G and E E E C, to adopt the child, Baby L B alias Baby C K, who shall be hereafter known as L M B v d G;
- b. That the child is hereby declared to be Kenyan by birth as he was born to a known Kenyan mother who abandoned him in hospital, he is entitled to all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya Citizenship and Immigration Act, including the right to be issued with a Kenyan passport. I hereby therefore direct the Principal Immigration Officer to issue the said child with a Kenyan passport;
- c. That J W B V B and M L M V D G are hereby appointed the legal guardians of the child should misfortune befall the applicants;
- d. That the Registrar-General is directed to enter this adoption order in the adoption register; and
- e. That the guardian *ad litem* is hereby discharged.

**DATED, SIGNED and DELIVERED at NAIROBI this 14<sup>th</sup> DAY OF August 2014.**

**W. MUSYOKA**

**JUDGE**

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