



REPUBLIC OF KENYA THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 118 OF 2014

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF BABY B.A. AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

D T W

AND

B J H W

JUDGMENT

1. The applicants D T W and B J H W are Dutch Nationals who have been married since 2000 and seek to adopt Baby B.A. They filed this originating summons on 2nd May 2014.
2. Baby B.A was on 27th November 2011 found abandoned by the mother at Weavers estate in Nakuru. The matter was reported to Nakuru Police Station and the child referred to Haven of Hope Baby Centre – Nakuru. On 29th November 2012 the child was committed into the legal custody of Haven of Hope Baby Centre for protection and care. The Police have been unable to trace the child's family, and no one has come to claim it. The applicants received the child for mandatory foster care period on 31st January 2014. He has been under their continuous care and control since.
3. On 9th October 2013 vide certificate number 001365 Little Angels Network Adoption Society freed the child for adoption.
4. The applicants were assessed by the Director of Children Services, Little Angels Network and the guardian *ad litem* B A O, each of whom filed a report recommending the adoption. A positive home study report by Council of Child Welfare Overijssel at Zwolle office through Stitching Africa in Netherlands found the couple suitable to adopt one foreign child. The foreign agency has a current approval from the Adoption Committee in Kenya. Stitching Africa has also undertaken to conduct post adoption assessments from the applicants and the child for a period of three years after they go back to Netherlands. The Dutch Ministry of Justice has confirmed that the adoption will be recognised in the Netherlands and the child will be authorised to enter and reside permanently in the Netherlands.
5. The applicants have proved during the mandatory period under **section 157** of the **Children Act** that they are capable of taking on the responsibility of adoptive parents successfully. They also meet the social parameters considered important to their taking on parental responsibilities and

custody of the child as would be confirmed by the adoption order. The child himself appears to have bonded well with them and he considers them to be his parents.

6. It is in the opinion of the court that the couple will be able to provide a home and family in which the child will grow and develop. The couple shall assume all parental rights and duties of the biological parents of the child, and treat it as if it was born to them. They have been made aware that once the adoption order is made it shall be a final and binding upon them during the lifetime of the child, and that the child shall have the right to inherit their property. Even owing to any subsequent unforeseen behaviour or other changes in the child, the applicants cannot give it up.
7. I am satisfied that the legal requirements for international adoption under **section 162** of the **Children Act** have been met. I make the following orders:-
 - a. the applicants D T W and B J H W are hereby allowed to adopt Baby B.A. who shall henceforth be known as B A W;
 - b. the child shall be presumed Kenyan by birth having been found abandoned in Nakuru in Kenya, and shall be entitled to all the rights accrued to citizens by virtue of the provisions of the Constitution of Kenya 2010 and the Kenya Citizen and Immigration Act;
 - c. M J P-W and J M are hereby appointed the legal guardians of the child in the event of the death or incapacity of the applicants before he is of full age or fully self-reliant;
 - d. the Principal Immigration Officer shall issue the child with a Kenyan passport;
 - e. the Registrar General shall enter this adoption order in the Adoption Register; and
 - f. the guardian *ad litem* is hereby discharged.

DATED and DELIVERED at NAIROBI this 6th day of August 2014.

A.O. MUCHELULE

JUDGE