



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 74 OF 2013**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY D- MINOR**

**S M M.....1<sup>ST</sup> APPLICANT**

**V W G.....2<sup>ND</sup> APPLICANT**

**J U D G M E N T**

The applicants, S M M and V W G, are husband and wife. They were married on 11<sup>th</sup> March 2009. According to the applicants, they had cohabited together as husband and wife since 2000 prior to formalizing the marriage. The applicants are business persons in Nairobi. The applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby D (the child). The child was born on 26<sup>th</sup> May 2009 at Mbagathi District Hospital. The child was abandoned by her mother on 1<sup>st</sup> June 2009 when she absconded from the hospital. A report on the abandonment was made to Kenyatta Police Post. The child was discharged from the hospital and taken for care and protection to Mama Ngina Children's Home on 5<sup>th</sup> June 2009. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement signed on 22<sup>nd</sup> December 2009. They took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, the Child Welfare Society of Kenya, an adoption society, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 10<sup>th</sup> May 2012. The Director of Children's Services prepared a report which is on record. The guardian ad litem, V N M, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established the fact that the applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants her parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants' application for adoption. The applicants, S M M and V W G, are hereby allowed to adopt Baby D. Henceforth, the child shall be known as D W M. Her date of birth shall be 26<sup>th</sup> May 2009. Her place of birth shall be Mbagathi District Hospital, Nairobi- Kenya. She is presumed to be a Kenyan by birth. G W, a sister to the 2<sup>nd</sup> applicant, shall be the legal guardian of the child should such eventuality arise. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It is so ordered.

**DATED AT NAIROBI THIS 26<sup>TH</sup> DAY OF SEPTEMBER, 2014**

**L. KIMARU**

**JUDGE**