

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 87 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY V *alias* V W M- MINOR

C L S1ST APPLICANT

E K M.....2NDAPPLICANT

J U D G M E N T

The applicants, C L S and E K M, are husband and wife. They were married in 1996 under Luhya Customary law. They formalized their marriage on 2nd August 2013 at the Registrar's Office in Nairobi. The 1st Applicant is an Engineer employed at [*particulars withheld*] Company while the 2nd Applicant is an Administrator at the [*particulars withheld*] Board. The Applicants have so far not been blessed with any 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 V *alias* V W M (the child). The child was presumed to have been born on 7th May 2012. He was found abandoned under a tree at a place known as Muthigiri area along Maragua-Muranga road on 8th May 2012. A report was made to Muranga Police Station. He was taken to Muranga District Hospital for care and treatment. The Muranga East Children's Office was informed of the incident and managed to secure a temporary home placement for the child at Thomas Barnardo House. The Child was committed by the Muranga Children's Court to the custody of the said Children's Home on 29th May 2012 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement was signed on 11th September 2013. 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 hearing of the adoption, Kenya Children's Home, 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 14th August 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, G 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 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 his 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, C L S and E K M, are hereby

allowed to adopt Baby V alias V W M. Henceforth, the child shall be known as J V A. His date of birth shall be 7th May 2012. His Place of birth shall be Maragua, Muranga County-Kenya. He is presumed to be Kenyan citizen by birth. H W I, a cousin of the 1st 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 25TH DAY OF SEPTEMBER, 2014

L. KIMARU

JUDGE