REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 28 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY S (MINOR)

B O O.....1ST APPLICANT

L A O.....2ND APPLICANT

J U D G M E N T

The applicants, B O O and L A O, are husband and wife. They were married under customary law in 2009. They converted their marriage into a statutory one on 6th August 2013 when they got married at the Registrar's Office in Nairobi. The 1st Applicant is an Accountant while the 2nd Applicant is a businesslady 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 Steve (the child). The child was presumed to have been born on 22nd January 2013. He was found abandoned on 26th January 2013 at Kamulu area within the outskirts of Nairobi. A report was made on the same day to Kamulu Police Post. The child was placed with Thomas Barnardo House on the same day for care and protection. He was committed by the Nairobi Children's Court to the custody of the said Children's Home on 19th April 2013 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement signed on 30th September 2013. They took custody of the child on the same day. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 12th September 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, F D A O, prepared a report which has been filed in court. All the reports are favourable and recommend the court to allow 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 and capacity to provide for the upkeep and education of the child. This court observed that 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, B O O and L A O, are hereby allowed to adopt Baby Steve. Henceforth, the child shall be known as Y B O. His date of birth shall be 22nd January 2013. His Place of birth shall be Kamulu- Kenya. He is therefore presumed to have been

born in Kenya. L A O, a cousin to the 2nd 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 26TH DAY OF SEPTEMBER, 2014

L. KIMARU

JUDGE