



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 93 OF 2014**  
**IN THE MATTER OF THE CHILDREN ACT (CAP 141)**  
**AND**  
**IN THE MATTER OF CHILD L. aka N.P.**  
**AND**  
**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**  
**F K N AND C W K**

**JUDGMENT**

1. The applicants have applied to adopt child L. aka N.P. They are a couple who married on 10<sup>th</sup> March 2001. Their marriage was blessed with two daughters, but one passed away leaving them with their 11 year old child R.J.K.
2. I was not able to grant the couple's request to adopt the child for two reasons. One, under **section 158(3)** of the **Children Act (Cap. 141)** -

**“An adoption order shall not be made if the applicant or, in the case of joint applicants, both or any of them –**

**(a) .....**

**(b) has been charged and convicted by a court of competent jurisdiction for or any of the offences set out in the Third Schedule to this Act or similar offences.”**

For the court to be persuaded that the applicants do not have any criminal history, each needed to file a certificate from the police. Such certificate would have shown that each applicant is of good conduct and therefore fit to adopt the child. None was produced. Secondly, under **section 156(1)** of the **Act**:

**“No arrangement shall be commenced for the adoption of a child unless the child is at least six weeks old and has been declared free for adoption by a registered adoption society in accordance with the rules prescribed in that behalf.”**

It is an offence under **section 156(3)** of the **Act** to contravene the above provision. In this case, the Director of Children's Services pointed out that the child was declared free for adoption nine months after she had been placed with the applicants.

3. Although the applicants have the financial and social ability to care for the child who has been in their continuous care and custody since 10<sup>th</sup> April 2013, the application or adoption is denied until they have sufficiently dealt with these issues.

**DATED and DELIVERED at NAIROBI this 28<sup>th</sup> November, 2014.**

**A.O. MUCHELULE**

**JUDGE**