

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 10 OF 2014

IN THE MATTER OF THE CHILDREN ACT (CAP 141)

AND

IN THE MATTER OF CHILD A.

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

T M O AND A N Y A M

JUDGMENT

1. The applicants are a Kenyan couple whose marriage was solemnised on 9th October 2012 at the Registrar of Marriages at Nairobi. They hail from Kisii. The 1st applicant is a senior hospitality clerk at the *[particulars withheld]* whereas the 2nd applicant is a dress maker/designer. They have not been blessed with any biological children, and seek to adopt child A.
2. Child A was found abandoned by a good samaritan on 21st February 2012 along Heshima Road in Shauri Moyo Estate. The matter was reported to Shauri Moyo Police Station. It was taken to Pumwani Maternity Hospital for medical care and later discharged and handed over to the Child Welfare Society of Kenya. On 2nd July 2012 the Children's Court at Nairobi committed it to Mama Ngina Kenyatta Children's Home for care and protection. The applicants entered into a foster agreement with the Child Welfare Society of Kenya on 14th December 2012. On 5th March 2014 the child was declared free for adoption and a certificate No. 0649 issued under **section 156** of the **Children Act (Cap 141)**. Police have confirmed that no one has claimed the child, and efforts to trace its relatives have not borne any fruit.
3. The Child Welfare Society of Kenya, the Director of Children's Services and the guardian *ad litem* D A O have each assessed the applicants and filed a report recommending the adoption. This is because the couple has the financial and emotional capability and capacity to take care of the child. They live in their own three bed-roomed house. The child is healthy, happy and relates well with them. They consider the child as their own.
4. The court opines that it is in the best interests of the child to be adopted by the applicants. The applicants will be able to provide a home and a family in which the child will grow and develop. They shall assume all the parental rights and duties of the biological parents of the child. They shall treat the child as if it was born by them. They have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child, and that the child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
5. Being satisfied that all the legal requirements for adoption have been met, I make the following orders:
 - a. that T M O and A N M are hereby allowed to adopt child A. who shall henceforth be known as A G M;

- b. the child's date of birth shall be 21st February 2012, and shall be presumed Kenyan by birth as it was found abandoned in Shauri Moyo Estate in Nairobi within Kenya;
- c. that C O is appointed the legal guardian to the child in the event of the death or incapacity of the applicants before it is of age and fully reliant;
- d. that the Registrar General shall enter this adoption into the Adoptions Register; and
- e. that the guardian *ad litem* is hereby discharged.

DATED and DELIVERED at NAIROBI this 27th November, 2014.

A.O. MUCHELULE

JUDGE