



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Adoption Cause 241 of 2012**

**IN THE MATTER OF THE CHILDREN'S ACT**

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY L K (MINOR)**

**JUDGEMENT**

The applicants, G.M. and F.M.T., are a married couple from Italy. They have brought an Originating Summons dated 1<sup>st</sup> November 2012 seeking leave to adopt L.K.

L.K., the subject of these adoption proceedings, was the product of a rape and [information withheld] relationship. He was born on 1<sup>st</sup> March 2007. His mother, R.K., alleged that she had been raped by her [information withheld], E.N., leading to the conception of the child the subject of these proceedings. The child was born at [information withheld] in Nairobi. She wanted to abandon the child at the clinic, but was forced to report the matter at the Muthangari Police Station. The matter was referred by the police to the [information withheld,] where the child was eventually committed by the Children's Court, and from where he was placed with the applicants on 3<sup>rd</sup> August 2012 for adoption purposes. There is sufficient documentation which supports this background, prepared by and filed in court on 5<sup>th</sup> December 2012 by the Little Angels Network adoption society and contained in a report dated 23<sup>rd</sup> May 2012. The child was given up for adoption by his biological mother and there are consents on record to that effect. The Little Angels Network freed the child for adoption and there is a certificate filed in court dated 23<sup>rd</sup> May 2012.

To facilitate the adoption the applicant has been assessed by the Director of Children's Services and the guardian *ad litem*, P.A.A., who have compiled and filed their reports in court dated 18<sup>th</sup> January 2013 and 12<sup>th</sup> February 2013, respectively. There is also an international adoption home study report by the Lazio Region Local Health Service in Rome, Italy, dated 12<sup>th</sup> July 2012. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicants and considers them to be his parents.

This proposed adoption has been approved by the Juvenile Court of Roma in accordance with the Italian. The suitability decree to international adoption is dated 16 April 2010. I have also seen the confirmation from the Associazione Italiana Pro Aozioni dated 4<sup>th</sup> August 2011 that a Kenyan adoption order would be received and recognised by the Italy and a child so adopted will gain resident status. Associazione Italiana Pro Aozioni has also given the assurance that it would ensure that the child will be protected in the event that something happened to the adoptive parents. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 11<sup>th</sup> April 2012.

In the opinion of this court it would be in the interests of the child that the child is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them. The applicants 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 cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

I am satisfied that all the legal requirements have been met. The court allows the applicants' application to adopt the child. The applicants, G.M. and F.M.T., are hereby allowed to adopt the child, L.K., who shall be hereafter known as L.M. V.C. and T.M. shall be the legal guardians of the child should misfortune befall the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.

**DATED, SIGNED and DELIVERED at NAIROBI this 8<sup>th</sup> DAY OF MARCH, 2013.**

**W.M. MUSYOKA**

**JUDGE**