



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO. 50 OF 2013 (OS)**

**AND**

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

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY F M M (MINOR)**

**JUDGEMENT**

The applicants, M M J W v H and W M M R, are from the (withheld). They are married since 2006. They have brought an Originating Summons dated 6<sup>th</sup> February 2013 seeking permission to adopt Baby F M M (minor).

The child the subject of these adoption proceedings, Baby F M M (minor), is an abandoned female child. Her date of birth is unknown, but it is estimated that she was born on 28<sup>th</sup> June 2010, to unknown parents. She was brought to the Meru Police Station by good Samaritans, who had found her abandoned. She was released to the Nest Children Home. Efforts by the police to trace the parents were not fruitful, and the Children's Court later committed her to the Nest Children Home, from where she was placed with the applicants on 10<sup>th</sup> December 2012. There is sufficient documentation which supports this background prepared by and filed in court on 15<sup>th</sup> February 2013 by the Little Angels Network adoption agency. The report is dated 25<sup>th</sup> January 2012. The Little Angels Network freed the child for adoption by their certificate dated 25<sup>th</sup> January 2012.

To facilitate the adoption the applicant has been assessed by the Little Angels Network, the Director of Children Services, and the guardian *ad litem*, R.A. All three have compiled and filed reports in court dated 11<sup>th</sup> March 2013, 11<sup>th</sup> April 2013 and 29<sup>th</sup> April 2013, respectively. There is also an international adoption home study report by the Ministry of Safety and Justice, Child Welfare Council, Central and West Brabant Region, Breda Office, The Netherlands, dated 22<sup>nd</sup> August 2011. 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 her parents

This proposed adoption has been approved by the State Secretary of Security and Justice in accordance with the Dutch law. There is a certificate of permission is dated 31<sup>st</sup> August 2011. According to an undertaking from Stichting Africa, an adoption agency, an adoption order made by a Kenyan court would be received and accepted in the Netherlands, and the child so adopted will be authorised to enter and reside permanently in the Netherlands. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 17<sup>th</sup> October 2012.

The applicants have also identified persons who would step in and act as legal guardians in the event of misfortune, such as death or incapacity, befalling both of them prior to the child reaching the age of majority. The proposed legal guardians, L C H R and H M C H, have executed the requisite letter of consent, which are attached to this Summons, dated 11<sup>th</sup> May 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 she 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, M M J W v H and W M M R, are hereby allowed to adopt the child, Baby F M M (minor), who shall be hereafter known as F M M v H. L C H R and H M C H are hereby appointed 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 28th DAY OF June, 2013.**

**W. M. MUSYOKA**

**JUDGE**