



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO.109 OF 2012**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY O J M (MINOR)**

**P M M.....1<sup>ST</sup> APPLICANT**

**M W N.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

The applicants, P M M and M W N, are husband and wife. They were married on 6<sup>th</sup> April 2011 at the Registrar's Office in Nairobi. The marriage was celebrated under the **Marriage Act**. Prior to formalizing their marriage, the applicants had cohabited together as husband and wife since 1994. The 1<sup>st</sup> applicant is an hotelier while the 2<sup>nd</sup> applicant is an administrator. The applicants have not been blessed with children of their own due to biological reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby O J M (the child). The child was born on 5<sup>th</sup> October 2010 at Mbagathi District Hospital. His mother absconded from the said hospital thus abandoning the child. A report was made to Kenyatta National Hospital Police Post on 29<sup>th</sup> October 2010. The child was discharged from the hospital and admitted to Thomas Barnados Children's Home. The Nairobi Children's Court committed the custody of the child to the said children's home on 21<sup>st</sup> February 2011. The child was placed under the custody of the applicants for mandatory foster care pending formal adoption proceedings on 22<sup>nd</sup> December 2011. 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 9<sup>th</sup> June 2011. The Director of Children's Services prepared a report which is on record. The guardian ad litem, G G, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows 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 capability 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, P M M and M W N, are hereby allowed to adopt Baby O J M. Henceforth, the child shall be known as O J M. His date of birth shall be 5<sup>th</sup> October 2010. P M M, 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.

**L. KIMARU**

**JUDGE**

**DATED, COUNTERSIGNED AND DELIVERED ON 27<sup>TH</sup> DAY OF JUNE 2013.**

**W. MUSYOKA**

**JUDGE**