

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 142 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY J M (MINOR)

JUDGEMENT

The applicants, M M and B B, are a married couple from Italy. They have brought an Originating Summons dated 17th June 2013 seeking leave to adopt Baby J M.

Baby J M (minor), the subject of these adoption proceedings, is an orphan, who was born on 20th August 2008 to M W N and J N N. Both parents died leaving the child, together with his siblings, under the care of his maternal grandmother, H N N, who was unable to take care of them and they were placed under the care and protection of an institution, initially the Archangel Raphael Children's Home and later the Nest Children's Home. The matter was reported at the Kiambu Police Station. The subject child was later committed by the local children's court to the said institution for care and protection, and it is from the institution that he was placed with the applicants on 14th March 2013 for adoption purposes. His grandmother and his elder brother have consented to his being adopted by the applicants. There is sufficient documentation which supports this background, prepared by and filed in court on 4th July 2013 by the KKPI adoption society and contained in a report dated 18th June 2013. The KKPI adoption society has freed the child for adoption and there is a declaration filed in court dated 18th June 2013.

To facilitate the adoption the applicant has been assessed by the guardian *ad litem*, F.O, and the Director of Children's Services, who have compiled their reports both dated 22nd April 2013, have filed them in court. There is also a social and psychological report by the Municipality of Rome, dated 1st March 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 Court for Underage in Rome in accordance with the Italian law. The suitability decree to international adoption is dated 2nd February 2012. I have also seen the confirmation from the Fondazione Raphael Onlus, an Italian based foreign adoption society, dated 26th April 2012 that a Kenyan adoption order would be received and recognised in Italy and a child so adopted will gain resident status. The Fondazione Raphael Onlus 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 15th August 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, M M and B B, are hereby allowed to adopt the child, Baby J M (minor), who shall be hereafter known as J M (minor). S B of (particulars withheld) Rome is hereby appointed the legal guardian of the child in the event of misfortune befalling the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.

SIGNED DATED and DELIVERED in open court this **15th** day of **August, 2013**.

W.M. MUSYOKA

JUDGE