

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 117 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF BABY A M C alias N D M [MINOR]

JUDGEMENT

The applicants, C P S and K S S, are a married couple of British and Swedish nationality, respectively. They have brought an Originating Summons dated 21st May 2013 seeking permission to adopt Baby A M C alias N D M [*minor*].

Baby A M C alias N D M [*minor*], the subject of these adoption proceedings, is an abandoned male child. His date of birth is unknown but is estimated to be 9th September 2011 to parents who are not known. He was founded abandoned at the age of seven or so months at [*particulars withheld*] Division in Hamisi Division and Hamisi District on 10th October 2011, and taken to Vihiga District Hospital. A report was made to the Vihiga Police Station and efforts to trace the parents were not fruitful. The Children's Court later committed him to the New Home Life Trust, from where he was placed with the applicants on 22nd February 2013. There is sufficient documentation which supports this prepared by and filed in court on 22nd May 2013 by the Little Angels Network Adoption Society dated 5th September 2012. The Little Angels Network Adoption Society freed the child for adoption by their certificate dated 5th September 2012.

To facilitate the adoption the applicant has been assessed by the Little Angels Network Adoption Society, the guardian *ad litem*, Esther Mutheu Keli, and the Director of Children's Services. These three have compiled and filed their reports in court dated 15th May 2013, 13th June 2013 and 17th June 2013, respectively. There is also an international adoption home study report by the Swedish National Board of Health and Welfare in Sweden dated 22nd November 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 his parents.

This proposed adoption has been approved by the Social Welfare Committee of the Uppsala Commune in accordance with the Swedish law. The certificate of consent is dated 6th May 2012. According to the Migrationsverket document dated 8th November 2008 an adoption, such as this which is done in conformity with the 1993 Hague Convention, is recognised by the Swedish law and a child so adopted acquires Swedish citizenship automatically. This is confirmed by the adoptions Centrum, Swedish based adoption agency, by their undated document; that a Kenyan adoption would be recognised in Sweden and the child given Swedish citizenship. The proposed adoption has also received local approval through the National Adoption Committee of Kenya, which has issued a certificate dated 8th November 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, C P S and K S S, are hereby allowed to adopt the child, Baby A M C alias N D M [*minor*], who shall be hereafter known as N C E S [*minor*]. S E J V K and J K H of [*particulars withheld*] Sweden are hereby appointed 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. As the child was found with the Kenyan borders this court declares that he shall be presumed to be Kenya by birth and that he was born on 9th September 2011.

DATED, SIGNED and DELIVERED at NAIROBI this 26th DAY OF September, 2013.

W.M. MUSYOKA

JUDGE