



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO 204 OF 2013 (OS)**

**AND**

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

**(NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY A C**

**JUDGEMENT**

1. The applicants, M H and K H, are a German married couple. Their Originating Summons is dated 10<sup>th</sup> September, 2013 seeks permission to adopt a child called Baby A C.
2. Baby A C was found abandoned at Kabete by a Good Samaritan on 20<sup>th</sup> April 2010, who then reported the matter at the Kabete Police Station. The Children's Court later committed him to the Nest Children's Home, from where he was placed with the applicants on 21<sup>st</sup> December 2012.
3. The child's biological mother was later traced by the police. She offered the child for adoption, and signed the relevant adoption papers. Her uncle likewise signed similar consents to support her surrender of the child for adoption. The reasons given for her surrendering the child for adoption were that she was jobless and that she had other children that she was not able to provide for.
4. This adoption process is arranged by the KKPI Adoption Society, who freed the child by a certificate dated 27<sup>th</sup> March 2013.
5. The applicant has been assessed by the guardian *ad litem*, P O K, the KKPI Adoption Society, and the Director of Children's Services. These three have compiled and filed their reports in court dated 15<sup>th</sup> November 2013, 24<sup>th</sup> September 2013 and 18<sup>th</sup> November 2013. There is also an international adoption home study report by HELP a child e. V., a German international adoption agency, dated 18<sup>th</sup> November 2011.
6. 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
7. This proposed adoption has been approved by the HELP a child e. V. in accordance with the German law. The certificate of adoption suitability is dated 11<sup>th</sup> November 2011. According to the notarised undertaking by HELP a child e. V. filed in this matter, a Kenyan adoption order will be respected and recognised in German and the child will be entitled to residency status. The proposed adoption has also received local approval on 20<sup>th</sup> February 2013 through the National Adoption Committee of Kenya, and there is a certificate conveying the said approval dated 20<sup>th</sup> March 2013.
8. 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.

9. I am satisfied that all the legal requirements for an international adoption have been met. I will allow the applicants' Originating Summons dated 10<sup>th</sup> September 2013. The applicants, M H and K H, are hereby allowed to adopt the child, Baby A C, who shall be hereafter known as A E C H. K H V and A E V are 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.

10. As the child was found abandoned at Kabete near Nairobi, he shall be presumed to be Kenyan by birth. He is entitled to the rights accruing to citizens as set out in the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.

**DATED, SIGNED and DELIVERED at NAIROBI this 17th DAY OF December, 2013.**

**W.M. MUSYOKA**

**JUDGE**