



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**MILIMANI LAW COURTS**

**Adoption Cause 146 of 2011**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**RULING**

The Applicants **M.T.M** and **M-P.K** seek authority to adopt **E.J.M**, a male Kenyan child aged 3 years who was abandoned at the nursery unit of Kericho District Hospital by his biological mother, one S.C, in 2008.

The Applicants are man and wife. They got married to each other in 2002. Both have attained University education. The male applicant is an (*particulars withheld*) currently employed by an English Company known (*particulars withheld*) as a Business Development Manager and drawing a gross salary of Euros 7,300 per month. The female Applicant is a (*particulars withheld*) employed by (*particulars withheld*), as a Unit Director with a salary of Euros 5,100. The Applicants do not have children of their own. They profess the Christian faith and worship at Evangelical Lutheran Church.

Both Applicants are said to be of general good health and have no drug or alcohol addiction. They are both Finnish.

They received the child on 13.5.2011 from New Life Home Nakuru, and have had continuous care and control since.

They were motivated to adopt the child as the most realistic solution to their childlessness and after receiving advice and encouragement from family and friends who have adopted children from China. They enlisted the help of the organization known as **“Save the Children Finland.”**

The Applicants are Caucasian and the child is African of brown complexion. The Finnish Board of Inter-Country Adoption Affairs has indicated that an adoption order in Kenya will be validated in Finland and that according to Section 10 of the Finnish Nationality Act (359/2003) an adopted alien child under 12 years of age at least one of whose parents is a Finnish citizen acquires Finnish citizenship upon validation of the adoption in Finland.

A perusal of the records of the Applicants reveals that the Applicants have no criminal record and have been recommended as suitable persons to adopt a child. They also love children and appear to have been prepared to assume parental responsibilities. They understand and have undertaken to treat the child as if he were born in wedlock as their own and that the child shall have the right to inherit their property and that the adoption order once made cannot be recanted. They shall ensure that annual follow up reports on the progress of the child shall be provided by the **Finnish Foreign Adoption Society** ‘to the **Little Angels Network**, a registered Adoption Society in Kenya.

The Legal Guardians to the child, **J.V.K** and **his wife M.E.K-K** have given their consents to serve in the event of death of the Applicants or disability by taking full responsibility of the child's emotional, financial, physical, mental and educational needs.

Little Angels Network, Kenya, and the Guardian *ad litem*, **H.A.M**, have recommended the proposed adoption of the child by the Applicants.

The Director of Children's Services in the Ministry of Gender, Children and Social Development of the Government of Kenya has also approved the proposed adoption of the child by the Applicants. APPROVAL CERTIFICATE FOR AN INDIVIDUAL FOREIGN ADOPTION APPLICATION was given to the Applicants by the National Adoption Committee sitting on 26<sup>th</sup> January 2011 in respect of the child who was declared free for adoption on 21<sup>st</sup> April 2010 by Little Angels Network which issued a Certificate Serial No.[...] dated 21.4.2010 declaring the child free for adoption.

I am satisfied that the provisions of Section 156 and 157 of the Children Act No.8 of 2001 have been complied with. I also satisfied that the Applicants have met the criteria set in Section 58 of the Children Act (*supra*).

In view of the fact that the biological mother of the child abandoned the child and disappeared, I dispense with her consent under the said Act.

I am satisfied that the adoption of the child by the Applicants is in the best interest of the child and that no payment or other reward has been made to anyone including the Applicants in consideration of the adoption. I am also satisfied that both the Applicants and the child have been assessed and evaluated by Little Angels Network, a registered Adoption Society of Kenya, and favourable reports thereof and recommendation for adoption made.

**In the result, I hereby make the following orders:-**

- (1) I dispense with consent of the biological parents.
- (2) I authorize the Applicants, **M.T.M** and **M-P.K** to adopt the child.
- (3) The child shall henceforth be known by the name of **E.J.M**.
- (4) The date of birth of **E.J.M** is 2008 and his place of birth is Kericho, Kenya.
- (5) The Registrar General shall make appropriate entries into the Adoption Children's Register in respect of **E.J.M**.
- (6) The legal Guardians to **E.J.M** is **J.V.K** and his wife **M.E.K-K** of (*particulars withheld*)
- (7) The Applicants shall furnish a report about the condition and development of **E.J.M**, for a period of three years beginning January 2013, to this court through [www.judiciary.go.ke](http://www.judiciary.go.ke) or Post Box Number 30041 – 00100, NAIROBI, with a copy to the Director of Children Department, Ministry of Gender, Children and Social Department, Jogoo House No.“A”, P. O. Box 46205, NAIROBI, Email:children@homeaffairs.go.ke.; Telefax Nairobi 248827.
- (8) For the avoidance of doubt, the rights and duties of the natural parents of the child are hereby extinguished and all the parental rights, duties, obligations and liabilities of the child now vest in and shall be exercisable by and enforceable against the Applicants as the adopting parents as if the child were born in wedlock to the adopting parents and the child, to all intents and purposes, now stands to the adopting parents as a child born in wedlock and both adopting parents shall henceforth be the lawful father and mother of the child.

Dated at Milimani Law Courts, Nairobi, this 20<sup>th</sup> day of January 2012.

**G.B.M. KARIUKI SC**  
**JUDGE**

**COUNSEL APPEARING**

*Mr. Ochieng Ogutu of Ochieng Ogutu & Co. Advocate, for the Applicants*

*Mr. D. Mutisya, Court Clerk*

**Also in attendance**

*Ms Helen A. Macharia, Guardian ad litem*

*Ms Viola Yego representing Director of Children Services, Ministry of Gender, Children and Social Development*

*Ms Caroline Macharia representing Little Angels Network*