



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**ADOPTION CAUSE NO. 10 OF 2011**

**ACT NO. 8 OF 2001**

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

**KENYA)**

**(CAP. 586 LAWS OF**

**BY MR. S.B**

**IN THE MATTER OF: AN APPLICATION**

**ORDER**

**AND S.K.F FOR AN**

**IN THE MATTER OF:  
CHILD)**

**ADOPTION OF BABY E.N.ALIAS E.N.W (THE**

**S.B**

**OF ADOPTION**

S.K.F ..... APPLICANTS

AND

J.K ..... RESPONDENTS

## **JUDGMENT**

The applicants herein S.B and S.K.P have filed an amended Originating Summons dated 6<sup>th</sup> December 2011, seeking for inter alia

**1. That the Applicants be authorized to adopt baby**

**E.N alias E.N.W**

**2. That upon an adoption order being made, the name BABY E.N alias E.N.W do change to E.C.S and the Registrar General be directed to make in the adopted children's register, an entry to the effect that "BABY E.C.S" is adopted as per the particulars of the adopted child.**

In support of the application, the applicants annexed inter alia,

1. A statement in support of the Application for an adoption order In a nutshell, it gives the Applicants personal, marital, religious, professional, employment and financial status and their suitability to adopt the said baby child.

2. An affidavit sworn by S.B in support of the application.

3. The deponent S.B has annexed to the support affidavit.
  - i) A Certificate from Little Angels Network declaring the child free for adoption.
  - ii) A report by the Little Angels Network to declare the child free for adoption pursuant to Section 156 (1) of the Children Act No. 8 of 2001.
  - iii) Acknowledgment of birth certificate issued by the Registrar of Births and Death.
  - iv) Rehema Home Admission form
  - v) A report of abandoned baby E.N, prepared by Ann W Muto, Hospital Matron – Kiambu District Hospital.
  - vi) Children's Officer's report on child in need of protection and care, dated 6<sup>th</sup> October 2004, signed on behalf of the District Children's Officer by one Anne Thiongo.
  - vii) A Court Order from the SPM'S Court at Kiambu Committing the baby child to Rehema Pefa Home.
  - viii) A report from Kiambu Police Station of an abandoned Baby E. N
  - ix) A report prepared by Rehema PEFA Home on the foster parent(s) upon the handing over the baby E to the Applicant's herein dated 4<sup>th</sup> May 2003.

x) A comprehensive pre – placement report by Little Angles Network dated 16<sup>th</sup> March 2001

I equally note that an application was made for appointment of J.K as the Guardian ad Litem and was heard and allowed. A verifying affidavit by one T.N the Guardian has also been filed.

At the time of the hearing of the application for Guardian ad Litem, the court ordered that the Guardian ad Litem do file his report within 21 days and the Children’s department filed a Home report and both reports were filed. In addition at the hearing of the, the Originating Summons, the Court ordered that the Applicants do file their certificate of good conduct. That was done. A further affidavit was sworn and filed in Court to prove the 1<sup>st</sup> Applicant’s means of livelihood (and annexed thereto are the documents from KBL Ltd where the Applicant was working.)

In view of the forgoing and having considered all the documents outlined above, the oral evidence in Court and more so, the pre-requisite for Adoption, under Section **156 and 157 of the Children Act**, the overriding principle in adoption is:

**“That the welfare of the child is fundamental”**

I find that the child herein was abandoned on the **28<sup>th</sup> October, 2002** at the Kiambu District Hospital. The child was placed in the care of the Applicants on **14<sup>th</sup> June 2003** and has been with them to date, for about **8 years**. The Home report indicates that the Applicants have been married for 18 years without the benefit of their own issue of marriage. The report further indicate they are desirous of having a

child of their own through the adoption process. That, they are financially capable of taking care of the “**adopted**” child. The 1<sup>st</sup> Applicant earns Kshs. 40,000/-per month from 3 units of rental house and the 2<sup>nd</sup> Applicant earns 18000/ from her teaching job. That, they have a permanent, well built, clean, spacious and furnished house with electricity and pumped water and that, the subject child is healthy and jovial.

The Provincial Director of Children’s Services Coast Province has recommended the Applicants for adoption.

In the absence of the known biological parents, taking it into account for 8 years the child and the Applicants have bonded and the need for continuity and in the absence of a better alternative, I allow the amended Originating Summons in terms of Prayers 1 and 2.

Dated, delivered and signed this 24<sup>th</sup> day February 2012 at Mombasa.

**G.L. NZIOKA**

**JUDGE**

**27<sup>TH</sup> FEBRUARY 2012**

In the presence:-

1. Mr. Kahindi for the applicants

2. Mr. Matano for Court clerk

**G.L. NZIOKA**

**JUDGE**

**27<sup>TH</sup> FEBRUARY 2012**