



IN THE MATTER OF BABY P.T.H

JUDGEMENT

J.N.K and **R.K.N**, the two Applicants, are man and wife. They are aged 43 years and 42 years respectively. They have one biological child, **A.N.N**, a girl, aged 6 years. They seek to adopt **J.G.N**, a child, and have complied with the provisions of Section 158 (1) of the Children Act No.8 of 2001 (The Act). **The child, J.G.N**, was placed in their care and control on 28th May 2010. They have satisfied the provisions of Section 156 of the Act.

The child was found abandoned along the fence at Makuyu Health Centre in 2009. Makuyu Police Post entered the details in their OB No.18 of 30th October 2009 and after treatment at and discharge from Muranga Hospital, the child was placed in the care of the Nest Children's Home following presentation before Senior Resident Magistrate Court at Limuru Law Courts for committal in Case No.13/2009. Little Angels Network issued a Certificate declaring the child free for adoption on 19.5.2010 vide serial No.[...].

Both Applicants have university education and have adequate income to enable them to raise both their biological daughter and the child to be adopted. I have perused the report dated 24th October 2011 by the Director of Children's Services, Ministry of Gender, Children and Social Development as well as the report dated 8.10.2010 by Little Angels Network which recommends the proposed adoption.

I am satisfied that the Applicants are sufficiently prepared to assume parental responsibility in relation to the child and have the wherewithal to meet the cost of raising two children. They have bonded well with the child and they seem to understand that the child once adopted shall have all the rights of a biological child including the right to inheritance.

I am satisfied that the biological parents of the child could not be traced and that it is therefore not possible to obtain the consent envisaged by Section 158(4) (a) of the Act. Accordingly, pursuant to Section 159 of the Act I dispense with the consent of the biological parents as I am satisfied that the child was abandoned and the biological parents cannot be traced.

The Applicants' decision to adopt the child is to be commended as they have decided to change the life of a fellow Kenyan for better by giving the child a better life and hope in life. Their action in uplifting the lives of others ought to be emulated by the more endowed members of our society. I am satisfied that the proposed adoption of the child is in the best interest of the child and will transform the life of the child to be a useful member of our society.

I accordingly allow the Application and order

1. That **J.N.K** and **R.M.N**, the Applicants herein are authorized to adopt the child, **P.T.H**.
2. That the child shall henceforth be known by the name of **J.G.N**
3. That the date of birth of the child is **2009** and his place of birth is **Makuyu Health Centre**.
4. The consents of the biological parents of J.G.N are hereby dispensed with.
5. That the legal guardian of J.G.N is **J.K.K** of Box [...] Nairobi who shall assume full parental responsibility in the unfortunate event of death or incapacity or inability on the part of the adopting parents to care, and raise the J.G.N.
6. The Registrar General shall make an entry in the prescribed form in the Adopted Children Register of the Adoption authorized herein.
7. For the avoidance of doubt, it is herein declared that all rights, duties, obligations and liabilities of the biological parents or guardians of the child are extinguished and all such rights, duties, obligations and liabilities shall vest in and be exercised by and be enforceable against the adopting parents namely, J.N.K and R.M.N as if the said child were a child born to them inside marriage and in respect of the matters aforesaid the child shall stand to the adopting parents as a child born in wedlock with the right to inherit the Applicants.

Dated at Milimani Law Courts, Nairobi, this 17th day Of February 2012.

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

COUNSEL APPEARING

Mr. J. Mwenda of Messrs Muriungi & Co. Advocates for the Applicant

Mr. Kugwa – Court Clerk