

IN THE MATTER OF BABY H.T

RULING

Before me is an application for an adoption order, dated 21st November 2011, brought under **Sections 154, 156, 158(1) (a) and 4 (e) 159(1) and (7), 160(1),163(1),164 and 170** of the **Children’s Act, 2001 (Act No.8 of 2001)** and **Section 22** of the **Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya)** (by dint of which the Adoption Rules under the **Adoption Act (Cap. 143)** (repealed) apply).

The applicants herein **H.V** (1st applicant) and **C.D.J.V** (the 2nd applicant), a married couple, of **NETHERLANDS** have moved the court, praying that they be authorized to adopt and rename a baby girl presently identified and known as **BABY H.T** who, for the purposes of this ruling shall, where necessary, be referred to either as **“Baby T”** or **“the infant”**. Both applicants are Dutch Nationals and were in court for the hearing of this application.

The 1st applicant is aged 41 years, while the 2nd applicant is 43 years old. The applicants were married on 21st June 2002 and have one other foster-child **B.P**, also adopted from Kenya and who has been living with them since 8th August 2008. The adoptive parents are gainfully employed in Holland where they currently reside. Although they rarely attend church, the family professes the Christian faith both adoptive parents being Roman Catholics. Theirs is a monogamous marital union which they are committed to preserve for the sake of their children. They share common values and have respect for a harmonious family life and social wellbeing. The applicants have proposed a new name which they intend to give to the infant once an adoption order is obtained from this court, with authority to rename her as proposed. The applicants have filed the requisite statements and affidavit in support of the application, bearing all the supporting documents as required by the law.

On 2nd December 2011, on the applicants’ application, **R.A.O** of P.O. Box [...] Nairobi was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a comprehensive report dated 23rd January 2012, primarily stating that **Baby T** has bonded well with the adoptive family, is happily settled in their care and is well taken care of. She also vouches for

the adoptive parents' capability to bring up **Baby T** and the brother well to provide for both children in a manner that will guarantee not only the necessary day to day care and education, ensuring that the adopted daughter, **Baby T**, would be financed to pursue her education to whichever level she would wish to reach, but also guarantee both children an inheritance. To this end the couple has put in place a family insurance cover.

In the unlikely event that they become incapacitated or die, before the child attains the age of majority, the adopting parents have appointed **MR. P.A.V.H and MRS J.A.A.D.J** to be legal guardian of the adopted child. The two have consented so to act. The Guardian ad Litem recommends that the applicants be granted the authority to adopt the infant and that the court grants, also, the incidental prayers sought in this application to complete the process.

The applicants have furnished the court with all the documentation necessary to support the *ex parte* Originating Summons as required under the relevant adoption laws and rules. They have produced, inter alia the requisite approval of the Dutch Government, through its Ministry of Justice, to adopt a second Foreign Child, as well as the approval by the Kenyan Adoption Committee of the Directorate of Children's Services. At the hearing of the application, it was proved that **Baby T** was found abandoned in Maweni Mombasa in January 2010 by a Good Samaritan who took her to the Likoni Police Station on the same day. The police, after recording a report of the finding, referred her to the Coast Provincial General Hospital where she was admitted and cared for 4 months. Efforts to trace the infant's parents proved futile.

On 12th May 2010 the infant was formally committed to Baby Life Rescue Centre an order of the Children's Court Tononoka, on the recommendation of the District Children's Officer, Mombasa. The court has been shown the committal order dated 12th May 2010. The Likoni police having formally informed the Rescue Centre that no claim had been made with them over the infant, **Baby T** was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angles Network, an accredited adoption society on 25th May, 2011. She was thereafter released and placed under the foster care of the applicants on 18th August 2011 under a Foster Care pending adoption Agreement entered between them and Baby Life Rescue Centre, annexed as annexure "**R**" to the applicants' affidavit in support of the adoption application. **Baby T** has been under their care and custody since.

The requisite studies and investigations have been carried out in regard to the applicants' suitability to adopt the infant and reports duly filed. The report by the Children's Officer, ordered by this court on 2nd December 2011 and was filed on 18th January 2012, recommending the adoption and renaming of **Baby T** by the applicants, who, according to the Director of Children's Services have proved that they are financially and socially capable of permanently fulfilling parental responsibilities over the infant, special consideration being given to the fact that they have previously adopted another Kenyan child who is thriving happily under their care in the Netherlands where he has acquired Dutch Citizenship.

In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children's Services, and thoroughly examined all the documentation filed in support thereof. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that the applicants do possess the requisite legal capacity to adopt the infant, and that they do understand the entire adoption process, and its future implications for themselves as a family and in particular, the need to provide the best for the adopted infant all her life. I find them to be financially able, medically and morally fit to adopt **Baby T**. They have undertaken and bound themselves to bring her up as one of their own, in a healthy, happy and secure environment.

Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby T**. Accordingly, the Originating Summons is hereby allowed and orders granted in terms of prayers 3, 4, 5 and 6 thereof.

DATED, SIGNED and DELVIERED at NAIROBI this 14th DAY OF February 2012.

M.G. MUGO

JUDGE

In the presence of :

Mr. Mwenda for the applicants.