

IN THE MATTER OF THE CHILDREN'S ACT

(ACT NO. 8 OF 2001)

AND

IN THE MATTER OF BABY N

RULING

Before me is an application for an adoption order, dated 11th November 2011, brought under Sections **154, 156(1), 157(1), 158(1) (a) and 4(a), 159(4) (6) (7) and (8) (a), (160) (1) (2) and (4), 162, 164(1) and 170 of the Children's Act, 2001 (Act No. 8 of 2001) and section 24 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Act (Chapter 2 of the Laws of Kenya)** (by dint of which the Adoption Rules under the Adoption Act (Cap. 143) (repealed) apply).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, **K. K. N. K.** (the 1st applicant) and **R. A. K.** (the 2nd applicant), a married couple, of ... Shanghai, China have moved the court, praying that they be authorized to adopt and rename a baby boy, presently identified as and known as **BABY N**, who, for the purposes of this ruling shall, where necessary be referred to either as **"Baby B" or "the infant"**.

The 1st applicant, whose presence at the hearing was dispensed with, is a Kenyan Citizen aged 35 years. The 2nd applicant, who attended court with the infant and other necessary and interested parties, is 37 years old and an American citizen. The applicants were married in Nairobi on 5th June 1999 have one daughter of the marriage named **K R L K** and are gainfully employed in the Peoples Republic of China, where they currently reside. The family professes the Christian faith and intends to bring up the infant under Christian principles and values. 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 the infant as proposed. The applicants have filed the requisite statement and affidavit in support of the application, bearing all the supporting documents as necessary.

On 25th November 2011, on the applicants' application, **E. M. K.** of P.O. Box (...) Uhuru Gardens, Nairobi was appointed the Guardian ad

Item for the purposes of this adoption. She has filed a comprehensive report dated 10th January 2012, primarily stating that Baby B 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 B and the sister well and to provide for both children in a manner that will guarantee not only the necessary day to day care and education to the highest level, but also guarantee them an inheritance. She therefore recommends that the applicants be granted the authority to adopt and 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. At the hearing of the application, it was proved, with reference to the said documentation, that Baby B was found abandoned at Kasarani round-about in Nairobi on 27th July 2010 by Good Samaritans, who took him to the Kasarani Police Station on the same day. The police, after recording a report of the finding, referred him to HappyLife Children's Home in Kasarani where he was admitted. Efforts to trace the infant's parents proved futile. On 24th June 2011 the infant was formally committed to the home by an order of the Senior Resident Magistrate Children's Court Nairobi, on the recommendation of the District Children's Officer, Kasarani. The Court has been shown the committal order dated 24th June 2011.

On 13th July 2011, Baby B was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angels Network, an accredited adoption society. He was thereafter released and placed under the foster care of the applicants on 12th August 2011 under a Foster Care Pending Adoption Agreement entered between them and HappyLife Children's Home, annexed as annexure **"RAK 43"** to the applicants' affidavit in support of the adoption application. Baby B has been under their care and custody since. The requisite studies and investigations have been carried out in regard to their suitability to adopt the infant and reports duly filed. The report by the Children's Officer, ordered by this court on 25th November 2011 was filed on 17th January 2012, recommending the adoption and renaming of Baby B by the applicants who, according to the Director of Children's Services have proved both financially and socially capable of permanently fulfilling parental responsibilities over the infant whether living in Kenya or abroad.

In considering this application, I have perused the reports filed by the Guardian and Litem and the Director of Children Services, and thoroughly examined all the documentation filed in support thereof. The applicant's suitability has been carefully assessed and positive recommendation filed by credible persons. I am satisfied that the applicants possess the requisite legal capacity to adopt an 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 his life. I find them to be financially able, medically and morally fit to adopt Baby B. They have undertaken and bound themselves to bring him 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 B. Accordingly, the Originating Summons is hereby allowed and orders granted in terms of prayers 3,4,5,6, and 7 thereof.

DATED, SIGNED and DELIVERED at NAIROBI this 6th DAY OF February 2012.

M.G. MUGO

JUDGE

In the presence of:

Mr. Rauta for the Applicants.