



**IN THE MATTER OF THE CHILDREN ACT (Act. No.8 of 2001)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF C.A**

**( A BABY)**

**BY**

**S.W.F**

**JUDGEMENT**

**S.W.F** hereinafter referred to as **“the Applicant”** is a single Applicant seeking authority to adopt an infant known as C.A. In her Originating Summons dated 16.3.2011, she seeks authority of this court under Section 154 of the Children Act No.8 of 2001 to locally adopt the said child.

The Applicant is aged 42 years and is a Kenyan by birth. She carries on business of selling cereals under the name and style (*particulars withheld*) Suppliers Enterprises which is registered under the Registration of Business Act Cap 499. She earns about shs.28,000/= per month. She was born in Banana and her parents are both alive and reside in Banana as do her four siblings. She enjoys a good relationship with them and they are all supportive of the adoption. She is a high school graduate from (*particulars withheld*). The report filed following investigations by the Director of Children’s Services shows that the Applicant was in cohabitation with a man in a come-we-stay relationship from 1992 to 1998 but it broke down when she was unable to conceive. Medical examination later revealed that she had blocked fallopian tubes. Although she was operated on, her chances of conceiving were rated at about 50%. She has never conceived. She now lives with her parents.

The child, C.A, was found abandoned at an open air market in in Nyeri

County and rescued by a Good Samaritan. The details relating to the incident are contained in O.B. No.3/23/10/09. She was admitted to New Life Home Trust in Nyeri to which she was subsequently committed by the Nyeri Children's Court in P and C 53 of 2009 on 29<sup>th</sup> October 2009. Police investigations conducted over a period of 6 months confirmed that the biological parents of the child could not be traced and no one claimed the child. Through New Life Home Trust, the Applicant got care and control of the child after executing a care agreement on 1<sup>st</sup> April 2010. The child was declared free for adoption on 10.11.2010 by Little Angels Network as is evidenced by their Certificate Serial No. [...]

Little Angels Network, a registered adoption society has also recommended the child's adoption by the Applicant.

The Applicant lives with her parents in Banana in a two bed-roomed house and she occupies one bedroom with the child while her parents occupy the other. The child is said to have bonded well with the Applicant and the rest of the family and does not know any other mother except the Applicant.

The report by the Director of the Children Services shows that the Applicant is capable of shouldering parental responsibility.

I have carefully considered the application and the reports filed and I am satisfied that the Applicant has met the legal requirements under the Children Act No.8 of 2001. Since the biological parents of the child cannot be traced, I dispense with their consent.

I am also satisfied that the adoption is in the best interest of the child who will grow up cared for by a family who will impart good Christian values in her. The child has a better future. Adoption of abandoned children in Kenya should be encouraged so as to help them by removing them from institutions and placing them in better environment with better facilities and care so that they might grow up to be better citizens capable of leading more productive lives and thus eschew being a burden to society.

I allow the application and grant the Applicant authority to adopt the child. In the result, I make the following orders:

1. The Applicant, **S.W.F**, is hereby authorized to adopt the child known as **C.A**.
2. The child shall henceforth be known as **M.W.W**.

3. The consents of the child's biological parents are hereby dispensed with.
4. The date of birth of M.W.W is September 2009 and her place of birth is in Kenya.
5. The Legal Guardian of the child is **G.W.W** (who shall step into the shoes of the Applicant in the unfortunate event that the Applicant is unable to shoulder parental responsibility).
6. The Registrar General shall make an entry of this Adoption in the Adopted Children Register in the prescribed form.
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 enforceable against the adopting parent namely, S.W.F as if the said child were her biological child and the child shall have the right to inherit the Applicant.

**Dated at Milimani Law Courts, Nairobi, this 22<sup>nd</sup> day of March 2012.**

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

**COUNSEL APPEARING**

***Ms V.S. Kimenyi advocate for Mr. Kioko of Kioko Munyithya, Ngugi & Co. Advocates for the Applicant***

***Mr. Kugwa – Court Clerk***