

IN THE MATTER OF H.M (MINOR)

JUDGEMENT

The Applicants, **A.H.H** and **F.S** are man and wife having gone through a ceremony of marriage on 28.2.2007 under Mohammedan Law. They seek authority of this court under Section 154 of the Children Act NO.8 OF 2001 to adopt the child known as **H.M.**

The female Applicant is the biological mother of the child. The male Applicant is a Canadian citizen. Both Applicants are Muslims and profess Islamic faith. The biological father of the child disappeared in Somalia and his whereabouts are unknown, hence his consent has not been forthcoming.

The Applicants have 5 other children who live with the child who the Applicants intend to adopt and the child has bonded well with them.

The report filed by the Director of Children's Department in the Ministry of Gender, Children and Social Development shows that the female applicant was once married to the biological father of the child and that both lived in Eastleigh Nairobi. The biological father later disappeared. The child was born in 2000. The report also shows that the male Applicant did not notify the Canadian authorities of his intention to adopt the child and it is not clear whether an adoption order of this court will be given recognition and whether the child would be accorded Canadian citizenship if adopted so that he is at par with the Applicants' other children. If Canadian citizenship were not forthcoming, it would traumatize the child a great deal. It is not clear why the male Applicant has failed to notify the Canadian authorities of his intention to adopt the child. Inheritance is also an issue. This being an international adoption, before granting authority to the applicants to adopt the child, the Canadian authorities shall need to be notified and the male Applicant should tender evidence whether the adoption order, if made, shall be recognized by the Canadian Government and whether Canadian citizenship or permanent residency shall be extended to the child.

The court is also concerned that the male Applicant has not had time to bond with the child.

Dated at Milimani Law Courts, Nairobi, this 9th day of March 2012.

G.B.M. KARIUKI, SC
JUDGE

COUNSEL APPEARING

Mr. Ombete of L. M. Ombete & Co. Advocates for the Applicants

Mr. Kugwa - Court Clerk