



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO: 216 OF 2011 (OS)
IN THE MATTER OF THE CHILDREN'S ACT
(ACT NO. 8 OF 2001)
AND
IN THE MATTER OF BABY J.M ALIAS I
RULING

Before me is an application for an adoption order, dated 25th November 2011, brought inter alia, 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** and **Section 24** of the **Interpretation and General Provisions Act (No 8 of 2001) (Chapter 2 of the Laws of Kenya)**.

The applicants herein **K.J.L** (1st applicant) **M.B.L** (*the 2nd applicant*), a married couple, of[.....] have moved the court, praying that they be authorized to adopt and rename a baby boy presently identified and known as **Baby J**who, for the purposes of this ruling shall, where necessary, be referred to either as **Baby J** the “*minor*”, “*the infant*” or the “*child*”. Both applicants are *Swedish Nationals* and were in court for the hearing of this application.

The 1st applicant is aged 39years, while the 2nd applicant is 40 years old. The applicants were married on 10th June 2006. The adoptive parents are gainfully employed in Sweden where they currently reside. The 1st applicant is a *Senior Scientist* with (*particulars withheld*) and the second is *Business Administrator* with (*particulars withheld*). The couple professes the Christian faith and are members of the church of Sweden. Their marriage is

a monogamous union which they both treasure, and are committed to preserve. They have no other children but share common values and have respect for a harmonious family life and social wellbeing which they consider useful for the upbringing of children.

The applicants have proposed a new name which they intend to give to the minor once an adoption order is obtained from this court, with authority to rename him 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. These include financial/income statements and a declaration of assets. Also filed is a home study report recommending them for adoption of a foreign child.

On 9th December, 2011, on the applicants' application, **C.W.O** of *Nairobi* was appointed the *Guardian ad Litem* for the purposes of this adoption. She has filed a comprehensive report dated 20th January, 2012, primarily stating that **Baby J** 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 the minor in a manner that will guarantee not only the necessary day to day care and education, but also mould him into a healthy, well adjusted individual as a result of belonging to a loving family.

In the unlikely event that they become incapacitated or die, before the *child* attains the age of majority, the adopting parents have appointed **L.F.B** who is the applicant's brother and his wife **A.M.R** to be the legal guardians of the adopted child. They have consented so to act. The *Guardian ad Litem* recommends that the applicants be granted the authority to adopt the minor 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 their local Social Welfare Committee, with the requisite confirmation by the Embassy of Sweden that the adoption will receive the

relevant legal recognition. The Kenyan Adoption Committee of the Directorate of Children's Services has also given its approval. At the hearing of the application, it was proved that **Baby J** was found and abandoned on the morning of 8/4/2009 beside the road at Nyalenda Railways opposite the Kisumu Museum. A good Samaritan, one Caroline Auma Owinyo found the baby and reported the matter to Kisumu Police Station vide the OB No: 14/8/04/2009. She was advised by the police to take the child to Kisumu District Children's office for appropriate placement. On 8th April 2009 the infant was placed with **New Life Home Trust-Kisumu**, where he was later committed on 6th May 2009 by an order of the Children's Court Winam. Efforts to *trace the infant's parents proved futile.*

The Kisumu police having formally informed the Children's Home that no claim had been made with them over the infant, **Baby J** was certified free for adoption as per a report to that effect filed herein on 1st December 2011. A Certificate of Declaration to that effect issued by the Little Angels Network, an accredited adoption society is attached to the report but unfortunately the same is not dated, a feature the court will deem to be an oversight. The baby was thereafter released and placed under the foster care of the applicants on 25th August 2011 under a Care Agreement entered between them and **NEW LIFE HOME TRUST**. The minor 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 child and reports duly filed. The report by the Director of Children's services, ordered by this court on 24th December 2011, was filed on 2nd February 2012, recommending the adoption and the renaming of **Baby J** by the applicants, who, according to the Director of Children's Services have proved that they are financially, socially and morally suited to permanently fulfil parental responsibilities over the infant.

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 child, 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 child all his life and to guarantee him an inheritance. I find them to be financially able, medically and morally fit to adopt **Baby J**. 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 J**. Accordingly, the Originating Summons dated 25th November 2011 is hereby allowed and orders granted in terms of prayers 3 thereof with the consent of the biological parents of the child being dispensed with. The applicants shall co-operate with and ensure that the Swedish adoption agency **ADOPTIONS CENTRUM** abides with the terms of its undertaking of **24th February 2011** and in particular, to ensure the filing of annual progress reports on the child with the Little Angles Network for 3 years succeeding their arrival in Sweden with the child.

The Registrar-General shall make the necessary entries in the Adoptions Register in recognition of the Adoption.

DATED, SIGNED and DELVIERED at NAIROBI this 26th DAY OF April 2012.

M.G. MUGO

JUDGE

In the presence of :

Miss. Kiguatha for the applicants.