



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

AND

IN THE MATTER OF BABY P.B

COURT AUTHORITY FOR ADOPTION (S.154 OF THE CHILDREN ACT)

JUDGEMENT

**MR. P.G.A.H** (the male Applicant) aged 43 years and **MRS. M. J.N** (the female applicant) aged 41 years applied to this court on 14<sup>th</sup> February 2012 by Originating Summons dated 10<sup>th</sup> February 2012 seeking under the provisions of Section 154 (1) of the Children Act, Chapter 141 of the Laws of Kenya authority to adopt the child known as **Baby P.B (the child)** aged just under 3 years. Both Applicants have been married to each other since 18<sup>th</sup> December 2007 and are Swedish Nationals whose Swedish passports are numbers [.....] and [.....] respectively.

The Male Applicant is an [*profession withheld*] and the female Applicant is a [*profession withheld*].

Prior to making the application for adoption, the applicants and the child had been evaluated and assessed by **Little Angels Network**, a registered Adoption Society in Kenya. They had had the child in their continuous care and control since 9<sup>th</sup> November 2011. The child was declared free for adoption by Little Angels Network on 13<sup>th</sup> October 2010 as is evidenced by the latter's certificate No.[.....] dated 13.11.2010.

The child was born on 2<sup>nd</sup> June 2009. He was abandoned on 3.6.2009 by the biological mother at Nyeri General Hospital. He was discharged and admitted to New Life Home in Nyeri on 23.7.2009 and was subsequently committed to the Home on 29.10.2009 for 3 years by the Children's Court at

Nyeri. The child has bonded well with the Applicants who got his custody, care and control on 9<sup>th</sup> November 2011. He is in good health. The Applicants' motivation is due to the female applicant's inability to conceive and the applicants' desire to raise a child.

The Applicants' home study reports show that they have no criminal records and are fit and proper persons to adopt a child. Their home reports have confirmed that the Applicants are capable of adopting a child of foreign nationality. They are shown to be in good health and to possess sufficient skills and resources to raise and educate a child.

The Kenya National Adoption Committee sitting on 27<sup>th</sup> July 2011 approved the individual foreign application of the male and female applicants. The Applicants have been recommended for the adoption by their home Adoption Agency, the Swedish Friends of Children International Adoption Society, as suitable for international adoption.

Since 9<sup>th</sup> November 2011, the Applicants have been resident in Kenya at Kilimani,. The biological father of the child is unknown and the biological mother could not be traced after abandoning the child. I have perused the evaluation and assessment reports filed by the Little Angels Network, and by the Director of Children Services as well as the report by the **Guardian ad litem, E.M.K.** They are positive. They show that the Applicants are mature adults who have the capacity to raise and educate the child and that they possess sufficient skills to assume parental duties. They appear alive to the implications of adoption including the fact that the child, once adopted, shall have the right to inherit as if she was a biological child of their own. The evidence presented to the court also shows that an adoption order made in Kenya shall be recognized and respected in Sweden and that it shall guarantee the child resident status and citizenship. In the event that the Applicants are unable to continue caring for the child or become incapacitated or they die, the Applicants have appointed **Ms J. H. K of M.G of SWEDEN** and her husband **P.H** to be the **legal guardians**.

I am satisfied that the adoption shall be in the best interest of the child. Accordingly, I allow the application and grant the Applicants the authority sought. I now make the following orders:

1. The consents of the biological parents of the child known as **BABY P.B** are hereby dispensed with.
2. The Applicants, **MR. P.G.A.H** and **MRS. M.A.J.N** are authorized

to adopt the child currently identified and known as BABY P.B.

3. The child shall henceforth be known as **P.K.A.H.**
4. The Legal Guardians of the child are **Ms J.H.K of Sweden and P.H.**
5. The date of birth of the child is 2<sup>nd</sup> June 2009 and his place of birth is Nyeri Provincial General Hospital, Kenya.
6. The Registrar General shall enter this adoption in the Adopted Children Register.
7. The Applicants shall, for a period of three years beginning January 2013, furnish a report each year to this court on the progress of the child through Email address [www.judiciary.go.ke](http://www.judiciary.go.ke) addressed to Deputy Registrar, Family Division of the High Court at Milimani Nairobi with a copy to the Director of the Department of Children's Services, Ministry of Gender, Children and Social Development, Jogoo House No."A", P. O. Box 46205, NAIROBI, Email:children@homeaffairs.go.ke.; Telefax Nairobi 248827.
8. For the avoidance of doubt, the rights and duties of the biological parents of the child are hereby extinguished and all the parental rights, duties, obligations and liabilities of the child, **P.K..A.H**, now vest in and shall be exercisable by and enforceable against the Applicants as the adopter parents as if the child were born in wedlock to the adopter parents and the child, to all intents and purposes, now stands to the adopter parents as a child born in wedlock and both adopter parents shall henceforth be the lawful father and mother of the child.

**Dated at Milimani Law Courts, Nairobi, this 14th day of June 2012.**

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

**JUDGE**

**COUNSEL APPEARING**

***Mr. Ochieng Ogutu of Ochieng' Ogutu & Company Advocates for the Applicants***

***Mr. Kugwa – Court Clerk***