



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE 116 OF 2011**

**IN THE MATTER OF BABY S.W**

**RULING**

Before me is an application for an adoption order, dated 15<sup>th</sup> July 2011 brought inter alia, under **Sections 154, 156 (1), 157(1), 158(1), (2), 159(1) (a) (i), (4),(6), (7), 160(1),(2), (3), (4), 161, 163, 164(1) and 170 of the Children’s Act, (No. 8 of 2001) and Sections 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya and enabling provisions of Law).**

The applicants herein, **J.K.N** (the 1<sup>st</sup> applicant) and **B.W.K** (the 2<sup>nd</sup> applicant), a married couple of **P.O. Box [...]** have moved the court, praying that they be authorized to adopt and rename a Baby Boy, presently identified and known as **Baby S** who, for the purposes of this ruling shall, where necessary, be referred to either **“the minor”, “the infant”** or **“the child”**. The applicants propose that he be known as **G N K** upon adoption.

Both applicants are Kenyan citizens. The 1<sup>st</sup> applicant is 46 years old while the 2<sup>nd</sup> applicant is 45 years old. The couple started cohabiting in 1993 and later formalized their union in April 2010 when they married at the Registrar’s office. They have no children of the marriage. The 1<sup>st</sup> applicant is self employed while the 2<sup>nd</sup> applicant is employed as a secretary. They have filed the requisite statement and affidavit in support of the application bearing all the supporting documents as necessary.

On 4<sup>th</sup> November 2011 on the applicants’ application, **J.M. of P.O. Box [...]** was appointed the Guardian ad Litem for the purposes of this adoption. He has filed a favourable report dated 23<sup>rd</sup> March, 2012 primarily stating that **Baby S** has bonded well with adoptive parents, is happily settled in their care and is well taken care of. He also vouches for the adoptive parents’ suitability to bring up the child in a healthy, happy and loving environment and to provide for him in a manner that will ensure his education to the highest level and grant him an inheritance. The Director of Children’s Services on the other hand has reported that the applicants are able to provide for the child in a manner that will guarantee not only his day to day needs and education but also guarantee him an inheritance. Both the guardian ad litem and the Director of Children’s Services highly recommend, therefore, that the applicants be granted the authority to adopt **Baby S** and that the court grants them, also, the any other prayers as are may be deemed necessary to complete the process.

At the hearing of the application, it was proved, through the documentation filed in support, that **“Baby S”** was born to one J.KM in September, 2009. The mother absconded and left him behind in hospital on 10<sup>th</sup> September 2009. The matter was reported to Karatina Police Station vide OB No. 19/5/10/2009. He remained in the hospital and was later discharged to New Life Home Trust, Nyeri for care and protection on 27<sup>th</sup> September 2009. He was committed to the home by the Senior Resident Magistrate Karatina Children’s Court vide a committal order dated 27<sup>th</sup> October, 2009.

Efforts by the police to trace the biological mother proved fruitless. This is confirmed by the letter from Karatina Police Station dated 17<sup>th</sup> April 2010. The child has been under the continuous care and custody of the applicants since 7<sup>th</sup> May 2010 when they entered into a foster care agreement with the New Life Home Trust Nyeri.

On 5<sup>th</sup> May, 2010 **Baby S** was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angles Network of Kenya. Relevant studies and investigations have been

carried out in regard to applicants' suitability to adopt the child and requisite reports duly filed. The report by the Children's Officer, ordered by this court on 4<sup>th</sup> November 2011 was filed on 28<sup>th</sup> February, 2012 recommending the adoption and renaming of **Baby S** by the applicants, who, according to the Director of Children's Services have proved that they are both financially and socially capable of permanently fulfilling parental responsibilities over the child.

In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children 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 her life. I find them to be stable, medically fit and financially able to adopt **Baby S**. 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 S**. Accordingly, the Originating Summons dated 15<sup>th</sup> July 2011 is hereby allowed and orders granted in terms of prayer 3 thereof, with the consent of the biological parent(s) being dispensed with. The Registrar General shall make the appropriate entries in the adoption register in recognition of this adoption.

**DATED, SIGNED and DELIVERED at NAIROBI this 20<sup>th</sup> DAY OF July, 2012.**

**M.G. MUGO**

**JUDGE**

**In the presence of :**

for the applicant.