



IN THE MATTER OF BABY A.R

1. VMM

2. MKM..... APPLICANTS

RULING

1. This is an application (by **originating summons dated 24th February 2010**) for an **adoption order**. I have read all the affidavits and other materials filed in support of the summons.

2. The Applicants and the Child have been assessed and evaluated by a registered adoption society in Kenya. I have read the report of the adoption society, **Kenya Children's Home Adoption Society**, dated 19th October 2009. I have also read a report dated 12th November 2010 by the **District Children's Officer, Machakos**. Both reports are favourable to the adoption order sought.

THE CHILD

3. The Child, Baby **AR aka DM** is male and was presumed born on 12th September 2007. He was abandoned at Huruma in Nairobi on 29th September 2007. He was taken to HPP and thereafter to Muthaiga Police Station. The Child was then admitted to **Thomas Barnado House** for care and protection on 3rd October 2007. By a **court order granted on 29th February 2008** in **Nairobi Children's Court, Protection and Care Case No. 13 of 2008**, the Child was committed to the care and protection of the TBH

3. On 2nd February 2009 the Child was placed with the Applicants, and they have had him without interruption since then.

4. On 20th June 2008 the Child was declared free for adoption by the **Kenya Children's Home Adoption Society** and a certificate to that effect issued on the same date.

GUARDIAN AD LITEM

5. On 2nd November 2010 **FM** was appointed guardian *ad litem* of the Child.

THE APPLICANTS

The Applicants, **VMM** and **MKL**, are husband and wife having married in 2004 under Kamba customs. They subsequently contracted a civil marriage on 15th December 2009. They reside at Machakos. Both are at least 21 years older than the Child. They are both of sound mind within the meaning of the **Mental Health Act, Cap 242**. They do not have any children of their own.

5. The Applicants have never been convicted of a sexual or moral offence by a competent court of law.

6. As already noted, the Child was abandoned. The Child's parents are unknown and nobody has ever come forward to claim him, either as a relative or guardian.

7. Bearing in mind that the interests of the Child are paramount, I hereby dispense with the consents required by **section 158(4)** of the **Children's Act, No 8 of 2001**.

DECISION

8. I have considered all matters placed before the court, including the statements of the Applicants filed with the application. Being guided by the principle that the welfare of the Child is paramount, I am satisfied that the Applicants have the ability to properly maintain and educate the Child. I am also satisfied that no payment or other reward has been given to or by the Applicants as consideration for the adoption order sought.

9. I am further satisfied that after the Child was found abandoned, all reasonable steps were made, albeit unsuccessfully, to locate the parents or guardian of the Child. Nobody came forward, as relative or guardian, to claim the Child.

10. I am thus persuaded that all requirements of the law for the adoption order sought have been met. I am also persuaded that the Applicants will provide a good and conducive home in which the Child will grow into responsible adulthood.

11. In the event I will grant the adoption order sought. **The Child's name shall be DMM. His date of birth is 12th September 2007, and he was born in Kenya.**

12. I hereby direct that the **Registrar-General** do make the necessary entry in the **Adoption Children Register**. This order shall be communicated to the Registrar-General in the prescribed form. Those will be the orders of the court.

11. The delay in preparation of this ruling is deeply regretted. It was caused by my poor state of health the last few years. But I thank God I am much better now.

DATED AT NAIROBI THIS 8TH DAY OF AUGUST 2012

H.P.G. WAWERU

JUDGE

**COUNTERSIGNED AND DELIVERED AT MACHAKOS THIS 28TH DAY
OF SEPTEMBER 2012**

ASIKE-MAKHANDIA

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JUDGE