



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**Adoption Cause 279 of 2009**

1. **B. M. K.**
2. **N. M. M..... APPLICANTS**

**R U L I N G**

1. The Applicants seek by **originating summons dated 20<sup>th</sup> August 2009** an adoption order. I have read all the affidavits sworn in support of the summons and other materials placed before the court.
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 17<sup>th</sup> October 2009. I have also read a report dated 3<sup>rd</sup> September 2010 by the **District Children's Officer, Machakos**. Both reports are favourable to the adoption order sought.

**THE CHILD**

3. Baby **N. (aka N. M.)** is male and was presumed born on 4<sup>th</sup> June 2007. He was found abandoned along Juja Road near the gate of Harvest Mission Centre by a Good Samaritan on 5<sup>th</sup> June 2007. The matter was reported to Pangani Police Station.
4. The Child was subsequently admitted to **Missionaries of Charity Home, Huruma** for care and protection. That placement was confirmed by an **order of the court made on 7<sup>th</sup> November 2007** in **Nairobi Children's Court, Protection and Care Case No. 175 of 2007**.
5. The Child was placed with the Applicants on 8<sup>th</sup> April 2009 and they have had him since. Nobody has ever come forward to claim the Child either as a relative or as a guardian. The Child was declared free for adoption on 10<sup>th</sup> March 2009 by the **Kenya Children's Home Adoption Society** and a certificate to that effect issued.

**GUARDIAN AD LITEM**

6. On 25<sup>th</sup> May 2010 **G. N. K.** was appointed by the Court guardian *ad litem* of the Child.

**THE APPLICANTS**

7. The Applicants, **B. M. K.** and **N. M. M.** are husband and wife who reside at Machakos. They have been married under Kamba Customary Law since 1991.
8. The Applicants, both Kenyans, do not have together any biological child. But each had a child by

previous relationships. The 1<sup>st</sup> Applicant's son, **G. K. M.**, was born in 1989, while the 2<sup>nd</sup> Applicant's daughter, **E. M. M.**, was born in 1986. Both children are adults. Emily is already married.

**9.** Each Applicant is at least 21 years older than the Child sought to be adopted. They are both of sound mind within the meaning of the **Mental Health Act, Cap 242**. They have never been convicted of a sexual or moral offence by a competent court of law. They are not homosexuals.

**9.** As already noted, the Child was abandoned. His parents or other relatives are unknown, and nobody has ever come forward to claim him either as parent or guardian. I thus hereby dispense with the consents required by **section 158(4)** of the **Children's Act, No 8 of 2001**.

### **DECISION**

**10.** 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 was given to or by the Applicants as consideration for the adoption order sought.

**11.** 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.

**12.** In the event I will grant the adoption order sought. The Child's name shall be N. M. M. His date of birth is 4<sup>th</sup> June 2007, and he was born in Kenya.

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

**14.** 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 that I have regained my full health now.

**DATED AT NAIROBI THIS 8<sup>TH</sup> DAY OF AUGUST 2012**

**H.P.G. WAWERU**

**JUDGE**

**COUNTERSIGNED AND DELIVERED AT MACHAKOS THIS 28<sup>TH</sup> DAY**

**OF SEPTEMBER 2012**

**ASIKE-MAKHANDIA**

.....  
**JUDGE**