

IN THE MATTER OF BABY F

JUDGEMENT

1. The applicants herein, **BNK** (the 1st applicant) and **MMN** (the 2nd applicant), a married couple of P.O. Box [....]JUTHIRU have moved the court, under **Sections 154, 156, 158, 159 and 160 of the Children's Act (No. 8 of 2001), Section 24 of the Interpretation and General Provisions Act (Cap 2 of the Laws of Kenya (by dint of which the Adoption Rules of the repealed Adoption Act, Cap 143 applies) and Section 3A of the Civil Procedure Act (Chapter 21 Laws of Kenya)** praying that they be authorized to adopt and rename a baby boy, presently identified and known as **Baby F** who, for the purposes of this ruling shall, where necessary , be referred to either as "**Baby F**" "**the child**" "**or**" "**the infant**". The applicants propose that he be known as **PKN** upon adoption.
2. Both applicants are Kenyan citizens. The 1st applicant is 48 years old while the 2nd applicant is aged 44. The couple got married under the African Christian Marriage and Divorce Act (Chapter 151 of the Laws of Kenya) on 4th December 1993. They own the home they live in, are both employed and have a healthy income as can be seen from the copies of their bank statements and payslips filed with their statement in support of the adoption application. They run a public transport commuter service of their own and own land (albeit registered in the name of the 1st applicant).
3. The applicants have appointed SM and SM to be the legal guardians of the child in the event that they be permanently incapacitated or die before the adoptive child attains the age of majority. The legal guardians' consent is dated 3rd February, 2011 has been produced before court. On 2nd March 2012 on the applicant's application, BN of P.O. Box [...]K was appointed the Guardian ad Litem for the purposes of this adoption. He has filed a brief but persuasive report, dated 6th July 2012, primarily stating that the child, **Baby F** has bonded well with the adoptive parents and he is happily settled in their care. He is well taken care of. The Guardian ad Litem also vouches for the adoptive parents' moral and social capability to bring up **the child** in an upright manner and to provide for his social and material well being.
4. 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 the child, **Baby F** and to rename him.
5. At the hearing of the application, it was proved, through the documentation filed in support, that **Baby F** was born on or about 2nd August 2010 and abandoned outside Living Glory Ministry Church in Lunga Lunga. The matter was reported to the Industrial Police station vide OB No. 40/6/8/2010. He was admitted at Thomas Barnados Home on 6th August 2010 where he was committed on the same day by the Children's Court, Nairobi. The committal order was produced in evidence. Efforts by the police to trace the child's biological parents have proved fruitless, as is confirmed by the letter from Industrial Area Police Station dated 10th February, 2011 which also states that no next of kin is known or has ever been found.
6. On 22nd July 2011 **Baby F** was placed under the care and custody of the applicants vide a Care Agreement of that date. He has been with them since. On 8th March 2011, he was certified free for adoption under a Certificate of Declaration to that effect issued by the Kenya Children's Home Society.
7. The requisite 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 Director of Children's Services ordered by this court on 2nd March 2012 was filed on 22nd May, 2012, recommending the adoption and renaming of **Baby F** 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. The director is also satisfied that the adoptive parents have the very best interests of the child at heart, their motivation to adopt being their long time desire to parent children but not being able to get any biologically.
8. 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, including the Declaration (Home Study) Report by the Kenya Children's Homes dated 1st December, 2011.
9. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that they 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. I find them to be stable, morally and medically fit and also financially able to adopt and support **Baby F**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment. Additionally, their commitment is a noble one, being influenced also, by a desire to provide for a needy child.
10. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby F** Accordingly, the Originating Summons dated 13th February, 2012 is hereby allowed and orders granted in terms of prayer 2, 3, 4 and 5 thereof.

DATED, SIGNED and DELIVERED at NAIROBI this 19th DAY of October, 2012.

M.G. MUGO

JUDGE

In the presence of:

Mr. Meme holding brief for Ms. Odija for the applicant.