



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Adoption Cause 122 of 2012**

**IN THE MATTER OF THE CHILDREN'S ACT**

**(ACT NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY R.**

**JUDGEMENT**

1. Before me is an application for an adoption order, dated 14<sup>th</sup> June 2012 brought under **Sections 157 and 160 of the Children's Act, (No. 8 of 2001) Legal Notice No. 75 of 2002 and all other enabling provisions of the Children's Act.**
2. The applicants herein, **AOW** (the 1<sup>st</sup> applicant) and **VAW** (the 2<sup>nd</sup> applicant), a married couple of **P.O. Box ... NAIROBI** have moved the court, praying that they be authorized to adopt and rename a baby Girl, presently identified and known as **Baby R.** who, for the purposes of this judgement shall, where necessary, be referred to either as "*the minor*", "*the infant*" or "*the child*". The applicants propose that she be known as **IBNO** upon adoption.
3. Both applicants are Kenyan citizens. The 1<sup>st</sup> applicant is 43 years old while the 2<sup>nd</sup> applicant is 42 years old. The couple got married on 3<sup>rd</sup> May 2003 at St. Mark's Church, Nairobi. The marriage was blessed with two biological children but one has since died. The surviving biological child is a girl aged 6 years. The 1<sup>st</sup> applicant is employed as a Civil Servant while the 2<sup>nd</sup> applicant is a banker. They have filed the requisite statement and affidavit in support of the application bearing all the supporting documents as necessary.
4. On 22<sup>nd</sup> June 2012 on the applicants' application **BNM of P.O. Box .... NAIROBI** was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a favourable report dated 19<sup>th</sup> July, 2012 primarily stating that **Baby R.** has not only bonded well with adoptive parents, is happily settled in their care and is well taken care of, but has also bonded with their biological daughter. The Guardian ad Litem vouches for the adoptive parents' suitability to bring up the child as one of their own, in a healthy, happy and loving environment.
5. The Director of Children's Services has also filed a report on the suitability of the applicants. The report by the Director, which was ordered by this court on 22<sup>nd</sup> June 2012 was filed on 17<sup>th</sup> July 2012. It states that the applicants are both financially and socially capable of permanently fulfilling parental responsibility over the child and to bring her up in a manner that will guarantee not only her day to day needs but also guarantee her 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 R.** and that the court grants them, also, the any other prayers as are may be deemed necessary to complete the process.

6. The applicants' motivation in this adoption is their desire to provide for a needy child. In the unlikely event that they become incapacitated or die, before the child attains the age of majority, the adopting parents have appointed **BW** who is a sister to the 2<sup>nd</sup> applicant to be the legal guardian of the adoptive child. She has consented to so act. Both the Director and the Guardian ad Litem consider the adoption to be in the adoptive child's best interests.

7. At the hearing of the application, it was proved, through the documentation filed in support, that "**Baby R.**" was abandoned and rescued by one John Wanderi in Huruma on 31<sup>st</sup> May 2011. The matter was reported to Huruma Police Post vide OB No. 48/31/5/2010. She was admitted at Missionaries of Charity, Huruma for care and protection. She was formally committed to the home by the Children's Court, Nairobi vide a committal order dated 23<sup>rd</sup> December, 2010.

8. Efforts by the police to trace the biological parents of the child have proved fruitless as is confirmed by the letter from Huruma Police Post dated 27<sup>th</sup> September 2011. The child has been under the continuous care and custody of the applicants since 7<sup>th</sup> January 2012 when they entered into a foster care agreement with the Missionaries of Charity -Huruma.

9. On 15<sup>th</sup> December, 2011 **Baby R.** was certified free for adoption under a Certificate of Declaration to that effect issued by the Kenyan to Kenyan Peace Initiative Adoption Society. Relevant studies and investigations have been carried out in regard to applicants' suitability to adopt the child and requisite reports duly filed.

10. 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 R.** They have undertaken and bound themselves to bring her up as one of their own, in a healthy, happy and secure environment.

11. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby R.** Accordingly, the Originating Summons dated 14<sup>th</sup> June 2012 is hereby allowed and orders granted in terms of prayers 1, 2, 3 and 4 thereof.

12. Orders accordingly.

**DATED, SIGNED and DELIVERED at NAIROBI this 18<sup>th</sup> DAY of October, 2012.**

**M.G. MUGO**  
**JUDGE**

In the presence of:

Mr. Ogutu for the applicant.