



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Adoption Cause 21 of 2011**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**IN THE MATTER OF AN APPLICATION FOR AN ADOPTION ORDER IN RESPECT OF C.  
(A MINOR)**

**M. O. O. .... 1<sup>ST</sup> APPLICANT**

**J. K. M. .... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

(1) The Applicants who are respectively husband and wife, seek to adopt the child he subject of these proceedings with whom they have lived since 22<sup>nd</sup> September, 2008 under a Care Agreement with the Missionaries of Charity, Huruma Children Home. The child's guardian ad litem and the Children Officer, Mombasa as well as the Adoption Society, Kenya Children's Homes, have filed their respective reports, and the Applicants' counsel has filed written submissions on the matter.

(2) The child's biological parents are unknown as she was abandoned at birth. Hence the prayer by the Applicants that the consents under Section 158(4) of the Children Act be dispensed with. The Applicants' brother has consented to act as guardian of the child.

(3) Pursuant to section 163 of the Children Act 2001, I have considered the best interest of the child, who was abandoned at birth and who has for the 3 of his 5 years lived with the Applicants, lie with securing for her a home with loving, caring parents of adequate financial resources and educational capacity to be able to provide for her social, emotional and educational needs.

The Applicants aged 38 and 34 respectively, are a civil servant and a businesswoman of tertiary level education with considerable financial income and therefore are in a suitable position to provide for the needs of the child. The reports by the Adoption Society, the Guardian ad litem and the Department of Children Services, Mombasa are all positive on the suitability of the Applicants.

(4) In view of the unknown status of the child's parents, the requirement for consent by the parents under section 158 (4) is waived. It being in the child's best interest and the Applicants being suitable adoptive parents, I would allow the adoption of the child the subject of these proceedings by the Applicants, as prayed.

(5) Noting the consent of the Applicants' brother one Mr. J. O. O. to be the child's guardian, I do as urged by counsel for the Applicants in the written submissions make orders that:-

(1) The Applicants be authorized to adopt the child the subject of these proceedings to be known as

C.N.O.

- (2) That Mr. J.O.O is approved as the child's guardian pursuant to section 164 of the Children Act.
- (3) The Registrar General is directed to make an entry in the Adopted Children Register pursuant to section 170 of the Children Act.

**Dated and delivered on the 11<sup>th</sup> December 2012**

**EDWARD M. MURIITHI**  
**JUDGE**

In the presence of:

Mr. Muthama for Musoka Applicants

Mr. Buoro- Court clerk