



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO.132 OF 2010**

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

**AND**

**IN THE MATTER OF BABY M *alias* K *alias* B.K**

**(MINOR)**

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

**M.E.A.....2<sup>ND</sup> APPLICANT**

**J U D G M E N T**

The applicants, K.M.K and M.E.A, are Swedish citizens. They were married in Sweden on 9<sup>th</sup> July 2005. The applicants do not have biological children of their own. The 1<sup>st</sup> applicant is a Youth Counsellor by profession and works for an organization in Stockholm, Sweden. The 2<sup>nd</sup> applicant is a teacher working at the C[...] School in Stockholm, Sweden. The applicants are motivated to adopt a child because they are unable to have biological children of their own. In order to adopt a child in Kenya, the applicants were assessed by Enskede-Arsta Vantor City Borough Administration under the Swedish **Social Services Act** to enable the Social Welfare Committee make a decision whether the applicants were qualified to adopt a child, specifically a foreign child. The said report is attached to the applicant's application. It is favourable and confirms the applicants as suitable persons to adopt the child. The applicants were further assessed by Adoptions Centrum, a Swedish Society for International Adoptions. The said organization approved the applicants' application seeking to be granted permission to adopt a child from Kenya. The applicants further sought the approval of the National Adoption Committee of Kenya to be allowed to adopt a child from Kenya. The committee considered the applicants' application. On 14<sup>th</sup> April 2010, the said committee issued a certificate to the applicants approving their application to adopt a child from Kenya.

The baby, M *alias* K *alias* B.K (the child) was presumed to have been born on 22<sup>nd</sup> October 2008. He was abandoned at birth at K in Nyeri town by his biological mother. The child was rescued by a good Samaritan and taken to Nyeri police station. The Nyeri District Children's Office was duly notified. The child was admitted at Nyeri Provincial General Hospital. He was later discharged and placed under the care of Love A Child Home, a Children's Home on 12<sup>th</sup> February 2009. The KChildren's Court committed the child to the care of the said Children's Home on 2<sup>nd</sup> October 2009 pending formal adoption proceedings. The biological parents of the child have so far not been traced. This court therefore dispenses with their consent for the purposes of these adoption proceedings. The child was declared free for adoption by Little Angels Network, the adoption society. A certificate to that effect was issued on 22<sup>nd</sup> October 2009. The child was placed under the custody of the applicants on 22<sup>nd</sup> June 2010 for compulsory foster care pending these adoption proceedings.

The court read the reports prepared by Little Angels Network, the local adoption society, Adoption Centrum, the foreign adoption society, the Director of Children's Services and by M.M, the guardian ad litem. The court had the benefit of reading the reports prepared in Sweden in regard to the applicants' application to adopt a foreign child. All the above reports are favourable and recommend the applicants' application to adopt the child. This is an international adoption. There are certain conditions that the applicants must fulfill before this court can allow them to adopt the child. The first condition is that the applicants must be approved by the relevant adoption authorities in their country of origin. In the present case, the applicants have been assessed and approved by the relevant authorities in their country of origin, Sweden. This court had the benefit of reading the report prepared by the foreign adoption society. This court is satisfied that the applicants have been approved by the relevant authorities in Sweden to adopt a foreign child, and specifically a Kenyan child. The second condition is that the applicants must be approved by the National Adoption Committee in Kenya to adopt a child in Kenya. The applicants have been assessed by the said National Adoption Committee. A certificate has been issued by the said committee approving the applicants' application to adopt a child in Kenya. The third condition is that the applicants must satisfy the court that they have fulfilled the legal

requirements regarding the adoption, including having custody of the child for a sufficient period of time to enable bonding to take place. This period must not be less than three (3) months. It was clear to the court that the applicants have fulfilled all the legal requirements in respect to international adoption. The applicants have had the custody of the child since 22<sup>nd</sup> June 2010. In the period that the child has been in their custody, the child has bonded with them. This was evident from the reports prepared by the Director of Children's Services, the guardian ad litem and the local adoption society. The applicants have established that they have the financial and emotional capability to take care of the child.

Having evaluated all the reports on record, and the applicants' application seeking to be granted permission to adopt the child, it was clear to this court that it would be in the best interest of the child for the application for adoption to be allowed. The applicants have given an undertaking that they shall allow access to the approved adoption society in their country of origin to undertake post-adoption supervision for a period of three years from the time of the issuance of this adoption order. The applicants have executed an undertaking that if this court grants the adoption order, they will permanently assume all the parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if he was born to them in their marriage; they have been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that they shall adopt; that the child shall have the right to inherit their property; that an adoption order cannot be recanted, and further, that they shall not give up the child owing to any subsequent unforeseen behaviours or other changes in the child; that the adoption society in Sweden (foreign adoption society) shall provide annual follow up reports on the progress of the child to the adoption society in Kenya (local adoption society) for a period of three (3) years from the date of the arrival of the child in Sweden; that the applicants undertake to allow the representatives of the foreign adoption society in Sweden free access to the child at any reasonable time. The applicants further give an undertaking that they shall accord their citizenship to the child.

In the premises therefore, this court finds that the applicants have met the criteria set for international adoptions. The applicants, K.M.K and M.E.A are hereby authorized to adopt baby M alias K alias B.K. The child shall henceforth be known as K.N.B.K. K.E.K and H.K.L.H are hereby appointed to be the legal guardians of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

**DATED AT NAIROBI THIS 18<sup>th</sup> DAY OF JANUARY, 2011**

**L. KIMARU**

**JUDGE**