



**IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF BABY J (MINOR)**

**F.O.O.....
.....1ST APPLICANT**

**R.A.O.....
.....2ND APPLICANT**

J U D G M E N T

The applicants, F.O.O and R.A.O, are husband and wife. They were married under the **Marriage Act** at the Nairobi Baptist Church on 7th August 1999. The applicants have not been blessed with any biological children. They wish to adopt a child. Baby J (the child) was presumed to have been born on 25th May 2008. She was found abandoned by a good Samaritan at Kariobangi area on 26th May 2008. A report was made to Kariobangi police post on the same day. The child was taken to the Children’s office where she was placed for temporary shelter at Nairobi Children’s Home. On 6th August 2008, the child was transferred to the Missionary of Charity Home-Huruma for care and protection. The child was committed to the custody of the said Children’s Home by the Nairobi Children’s Court. The biological parents of the child have to date not been traced. This court therefore dispenses with the consent of the biological parents for the purpose of these adoption proceedings. The child was declared free for adoption on 10th March 2009 by Kenya Children’s Home, an adoption society. The child was placed under the custody of the applicants for compulsory foster care pending these adoption proceedings on 8th April 2009.

The applicants were assessed by Kenya Children’s Home, an adoption society and by the Director of Children’s Services. The two organizations

recommend the application by the applicants to adopt the child. W.M.O, the guardian ad litem, also prepared a report which is favourable and recommend the adoption. This is a local adoption. As stated earlier in this judgment, the applicants are a married couple who have expressed their wish to adopt a female child. The applicants are Kenyan citizens by birth. They established that they have the financial and emotional capability and capacity to take care of the child. In the period of about two (2) years that the child has been in the custody of the applicants, it was evident to the court that the child has bonded with them. The child considers the applicants to be her parents. All the relevant agencies have recommended the adoption. This court is of the view that the applicants have fulfilled all the legal requirements for a local adoption.

This court formed the opinion that it would be in the best interest of the child for the child to be adopted by the applicants. The applicants will provide a home and a family for the child to grow up and be a useful member of the society. The applicants will be required to execute an undertaking that they shall 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 she 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 behaviour or other changes in the child.

The court will therefore allow the applicants' application to adopt the child. They have fulfilled the legal conditions for local adoptions by a married couple. The applicants, F.O.O and R. A.O, are hereby allowed to adopt baby J. Henceforth, the child shall be known as J.H.O. W.M.O shall be the legal guardian of the child should misfortune befall the applicants. The Registrar General is hereby directed to enter this adoption order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

DATED AT NAIROBI THIS 25TH DAY OF FEBRUARY, 2011

L. KIMARU
JUDGE

