

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.182 OF 2009

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

IN THE MATTER OF BABY J. M.M *a.k.a* E.W (MINOR)

**C.M.W.....
.....1ST APPLICANT**

**A.W.K.....
.....2ND APPLICANT**

J U D G M E N T

The applicants, C.M.W and A.W.K were customarily married in 1995. On 18th October 2006, they converted their marriage into a statutory one when they were married at the Registrar’s office in Nairobi. The applicants have not been blessed with biological children of their own. They wish to adopt a child. Baby J.M. M (the child) was born on 6th October 2005 at Kiambu District Hospital. The child’s mother, one E.W.M, absconded from the hospital on 8th October 2005 abandoning the child under the care of the nursing staff at the hospital. A report was made to K police station on 9th October 2005. The child remained in the said hospital for a period of seven (7) months until he was discharged into the care of Open Hand Children’s Home. The said Children’s home took custody of the child on 24th May 2006. The Children’s Court at Kiambu did commit the child to the care of the said Children’s Home pending further court proceedings. On 22nd February 2007, the child’s custody was handled over to the applicants for compulsory foster care pending formal adoption proceedings. Since then the child has been in the custody and care of the applicants. The police have attempted in vain to trace the whereabouts of the parents of the child. The child remained unclaimed for the period of seven months that he was at the hospital before the Kiambu Children’s office intervened and secured his discharge to the Children’s Home. This court therefore dispenses with the

consent of the biological parents of the child for the purpose of these adoption proceedings. The child was declared free for adoption on 3rd February 2010 by Little Angels Network, a duly approved adoption society.

The applicants were assessed by Little Angels Network, the adoption society and by the Director of Children's Services. The two organizations recommend the application by the applicants to adopt the child. M.M.M, 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 married couple who have expressed their wish to adopt a male child. The applicants are Kenyan citizens. They established that they have the financial and emotional capability and capacity to take care of the child. In the period of more than four (4) 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 his 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 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.

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, C.M.W and A.W.K, are hereby allowed to adopt baby J.M.M. Henceforth, the child shall be known as V.K.M. J.M.W 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