



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS

ADOPTION CAUSE NO. 206 OF 2009
IN THE MATTER OF *BABY J.K.N.*

APPLICATION FOR AN ADOPTION ORDER

1. J.N.
- 2.

A.N.N.....APPLICAN
TS

RULING

This is an application for an adoption order by **originating summons dated 7th July 2009**. I have read all the affidavits sworn in support of the summons and also the statements of the Applicants.

The Applicants as well as the child have been assessed and evaluated by a registered adoption society in Kenya. I have read the report of the adoption society, **Kenya Children's Home, dated 22nd July 2008**. I have also read a report dated 22nd October 2010 by the District Children's Officer, **Machakos**. Both reports are favourable to the adoption order sought.

THE CHILD

Baby **J.K.N.**, a female infant, was born on or about 21st April 2005 in Kenya but at an unknown place. She was abandoned somewhere in the east lands of Nairobi while she was about two months of age. She was found and taken to a children's home, **Missionaries of Charity, Nairobi**.

By an **order issued on 3rd May 2006** by the Children's Court, Nairobi the infant was placed into care and protection. The child is of the African race. On 9th of February 2007 the child was placed into the care and custody of the Applicants. The Applicants have had the child since then without interruption.

The child has been declared to be free for adoption by **certificate dated 18th July 2008** issued by **Kenya Children's Home**, a duly registered adoption society.

GUARDIAN AD LITEM

On 29th April 2010, **P.K.I.** was appointed guardian *ad litem* of the child.

THE APPLICANTS

The Applicants are Kenyans and are residents of Machakos County. They are husband and wife having married under the African Christian Marriage and Divorce Act. They do not have any child of their own.

The 1st Applicant, J.K.N., was born in 1943. He is therefore now aged about 68 years. He is a farmer. He was previously employed by the Kenya Police Force as a police officer. He subsequently worked as a clerical supervisor with a bank and also as a security officer with a transport company.

The 1st Applicant married the 2nd Applicant in 1984 as a second wife. His first wife died in 1999 after 26 years of marriage. He had with the first wife four children, all of them adults. He has had formal education up to Form 4 level (1962).

The 2nd Applicant, A.N.N., was born in 1964. She is therefore aged about 47 years. She is a housewife and farmer. She has had formal education up to Standard 8 (1984).

The Applicants live in a four-bed roomed permanent house. They have about 110 acres of land in which they grow various crops. They derive from this an

income of about KShs. 29,000/00 every month. They currently own 8 head of cattle, 6 goats and chickens.

Both Applicants are at least 21 years older than the child. Both are of sound mind within the meaning of the **Mental Health Act, Cap 242**.

None of the Applicants has ever been charged with or convicted of a sexual or moral offence by a competent court of law. Neither of them is a homosexual.

As already stated, the child was found abandoned. The child's parents are unknown. No one has come forward to claim the child, either as parent or guardian. No one has come forward to claim parental responsibility as father of the child.

Bearing in mind that the interests of the child are paramount, I hereby dispense with the consents required by **section 158 (4) of the Children's Act, No. 8 of 2001**. This dispensation is made under **section 159** of the same Act.

I have considered all matters placed before the court, including the statements of the Applicants, under oath upon examination by the court, and submissions of their learned counsel. Being guided by the principle that the welfare of the child is paramount, I am satisfied that the Applicants have the ability to maintain and educate the child.

I am also satisfied that no payment or other reward has been given to or by the Applicants as consideration for the adoption order sought. I am also satisfied that after the child was found abandoned, all reasonable steps were made, albeit unsuccessfully, to locate the parents or guardian or relative of the child. No capable relative came forward with expressed willingness to accept care of the child.

I am therefore satisfied that all requirements of the law for the adoption order sought have been met. I am also satisfied that the Applicants will provide a good and conducive home in which the child will grow into responsible adulthood. In the event, I will grant the adoption order sought.

The child's name shall be J.K.N.. Her date of birth is **21st April 2005**. She was born in Kenya.

I hereby direct that the Registrar-General do make an entry in the Adopted Children Register. This order shall be communicated to the Registrar-General in the prescribed form. Those will be the orders of the court.

DATED AT MACHAKOS THIS 8TH DAY OF FEBRUARY 2011

H.P.G. WAWERU

JUDGE

DELIVERED THIS 11TH OF FEBRUARY 2011