



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**ADOPTION CAUSE NO. 4 OF 2010**

**IN THE MATTER OF BABY M.N.**

**APPLICATION FOR AN ADOPTION ORDER**

**J.M.S.....APPLICANT**

**RULING**

This is an application for an **adoption order** by **originating summons dated 2nd July 2010**. I have read all the affidavits sworn in support of the summons and also the statements of the Applicants.

The Applicant 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, **Little Angles Network, dated 24th October 2007**. I have also read a **report dated 15th November 2007** by the District Children's Officer, Mutomo. Both reports are favourable to the adoption order sought.

**THE CHILD**

Baby **M.N.**, a female infant, was born on 30th January 2006 at Kenyatta National Hospital. She was abandoned by her parents at the hospital. Her parents were **G.W.** and **T.M.** They disappeared and have not been heard from or of since. She was taken to a children's home, **Missionaries of Charity, Nairobi**.

By an **order issued on 15th November 2006** by the Children's Court, Nairobi the infant was placed into care and protection. The child is of the African race. On 21st January 2008 the child was placed into the care and custody of the Applicant. The Applicant has had the child since then without interruption.

The child has been declared to be free for adoption by **certificate dated 21st May 2008** issued by Little

Angles Network, a duly registered adoption society.

### **GUARDIAN AD LITEM**

On 19th October 2010, **J.K.S.** was appointed guardian *ad litem* of the child.

### **THE APPLICANT**

The Applicant, **J.M.S.**, is a Kenyan and is a resident of Machakos County. She does not have any child of her own. She is single but was previously married to one Mr. M. who died in September 2002. She does not intend to marry.

The Applicant was born in 1964. She is therefore now aged about 47 years. She is a farmer who grows vegetables for sale in her 5 acres of land. She has had formal education up to Form 4 (1985).

The Applicant is at least 21 years older than the child. She is of sound mind within the meaning of the **Mental Health Act, Cap 242.**

She has ever been charged with or convicted of a sexual or moral offence by a competent court of law. She is not a homosexual.

As already stated, the child was abandoned. The child's parents, though known, abandoned the child, disappeared and have never been heard of since. No one has come forward to claim the child, either as relative or guardian.

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 statement of the Applicant, under oath upon examination by the court, and submissions of her learned counsel. Being guided by the principle that the welfare of the child is paramount, I am satisfied that the Applicant has 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 Applicant 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 Applicant 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 **M.M.** Her date of birth is **30th January 2006**. 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 8<sup>TH</sup> DAY OF FEBRUARY 2011**

**H.P.G. WAWERU**

**JUDGE**

**DELIVERED THIS 11TH OF FEBRUARY 2011**