



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO.68 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY A *aka* BABY J.M (MINOR)

G.N.....
.....1ST APPLICANT

N.N. N.....
.....2ND APPLICANT

J U D G M E N T

The applicants, G.N and N.N.N, are husband and wife. They were married in 1994 under Kikuyu customary law. They later converted their marriage to a statutory one on 26th June 2008 at the Registrar’s office in Nairobi. The marriage is now under the **Marriage Act**. The applicants have been unable to have biological children of their own due to medical reasons. They wish to adopt a child. Baby A aka Baby J.M (the child) was born on 25th April 2006 at Thika District Hospital. The mother of the child absconded from the hospital soon after giving birth to the child. She abandoned the child at the hospital. A report of the abandonment was made to Thika police station on 30th April 2006. The child was admitted to Happy Life Children’s Home on 3rd May 2006. The child was committed to the custody of the said Children’s Home by the Nairobi Children’s Court. Efforts by the police, and other relevant authorities, to trace the whereabouts of the biological parents of the child have been in vain. 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 13th July 2007. A certificate to that effect is in the court file. The child was placed with the applicants for compulsory foster care on 15th December 2006. Since then, the child has been under the continuous custody of the applicants.

The applicants were assessed by Kenya Christian Homes adoption society and by the Director of Children's Services. The two organizations recommend the application by the applicants to adopt the child. H.N.M, the guardian ad litem, also prepared a report which is favourable and recommend the proposed 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 more than four (4) years that the child has been in the applicants' custody, 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 a local adoption by a married couple. The applicants, G.N and N.N.N, are hereby allowed to adopt baby A also known as J. M. Henceforth, the child shall be known as P.R.W. A.M.M 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 30TH DAY OF MARCH, 2011

L. KIMARU
JUDGE