



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO.50 OF 2010**

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

**AND**

**IN THE MATTER OF BABY C.N – MINOR**

**R.K.M .....**

**.1<sup>ST</sup> APPLICANT**

**J.**

**M.M.....<sup>2<sup>N</sup></sup>**

**<sup>D</sup> APPLICANT**

**J U D G M E N T**

The applicants, R.K.M and J.M.M, are husband and wife. They were married

under the **African Christian Marriage and Divorce Act** on 22<sup>nd</sup> August 1998. The applicants have not been blessed with biological children of their own. They both work as Church Ministers in [Particulars withheld]. They wish to adopt baby C.N (the child). The child was born on 25<sup>th</sup> March 2009 at Kiambu District Hospital by a woman who identified herself as A.N. On 27<sup>th</sup> March 2009, the mother of the child absconded from the hospital abandoning the child. A report was made to the Kiambu police station. The Kiambu District Children's Office was informed of the incident. The child was discharged from the hospital and taken to Love A Child Children's Home where she was admitted. The Karatina Children's Court committed the custody of the child to the said Children's Home for care and protection pending further court orders. The relevant authorities, including the police, made efforts to trace the whereabouts of the parents of the child. So far, their efforts have been unsuccessful. No one has come forward to claim the child. This court therefore dispenses with the consent of the biological parents of the child for the purposes of these adoption proceedings. The child was declared free for adoption on 22<sup>nd</sup> October 2009 by Little Angels Network adoption society. A certificate to that effect was issued and is in the court file. The child was placed under the care and custody of the applicants for compulsory foster care on 30<sup>th</sup> October 2009. The child has been with the applicants ever since.

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. Reverend P. N. G, the guardian ad litem, also prepared a report which is favourable and recommends 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 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 one and a half 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, R.K.M and J.M.M, are hereby allowed to adopt baby C.N. Henceforth, the child shall be known as J.N.W. M.M.K 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 11<sup>TH</sup> DAY OF MARCH, 2011**

**L. KIMARU**

**JUDGE**