



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO.187 OF 2009**

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

**AND**

**IN THE MATTER OF BABY C.N – MINOR**

**G.K. M.....1<sup>ST</sup> APPLICANT**  
**M. M.....2<sup>ND</sup> APPLICANT**

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

The applicants, G.K.M and M.M, are husband and wife. They were married on 11<sup>th</sup> March 2003 at the Registrar’s office in Nairobi. The marriage was celebrated under the under the **Marriage Act**. The applicants have been blessed with one biological child, a son, born on 12<sup>th</sup> April 2003. The 2<sup>nd</sup> applicant has a daughter born on 18<sup>th</sup> January 1999 from a previous relationship. The two children are under the custody of the applicants. The 1<sup>st</sup> applicant works as an airline pilot while the 2<sup>nd</sup> applicant is a businesswoman. The applicants wish to adopt a female child. The applicants have been motivated to adopt a child because of their desire to have a third child has been frustrated by the 2<sup>nd</sup> applicant’s inability to have children due to medical reasons. Baby C.N (the child) was born on 23<sup>rd</sup> November 2006 at Fatima Health Centre, Ongata Rongai. The child’s biological mother, C.N, offered the child for adoption soon after the child was born. Her decision to offer the child for adoption was supported by the child’s maternal grandmother, M.N. Both parents executed consents agreeing to forfeit parental rights and responsibility over the child on making the offer of the child for adoption. Upon perusing the said consents by the biological mother and the maternal grandmother of the child, this court is satisfied that the said consents were voluntarily given and therefore the child was properly received at the Thomas Barnado House for care and protection pending these adoption proceedings. The child was committed to the care and protection of the said Children’s Home on 25<sup>th</sup> July 2007 by the Children’s Court Nairobi. The child was declared free for adoption on 12<sup>th</sup> May 2008 by Kenya Children’s Home 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 on 6<sup>th</sup> March 2007 for compulsory foster care pending these adoption proceedings. 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 proposed application by the applicants to adopt the child. L.W.M, the guardian ad litem, also prepared a report which is favourable and recommends 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 requirements for a local adoption by a married couple. The applicants, G.K.M and M.M, are hereby allowed to adopt baby C.N. Henceforth, the child shall be known as S. 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 and litem is hereby discharged. It is so ordered.

**DATED AT NAIROBI THIS 27<sup>TH</sup> DAY OF APRIL, 2011**

**L. KIMARU**  
**JUDGE**