

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI LAW COURTS)

ADOPTION CAUSE NO.69 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF J.W – MINOR

D.W.K.....1ST APPLICANT
C.T.....2ND APPLICANT

J U D G M E N T

The applicants, D.W.K and C.T, are husband and wife. They were married on 3rd January 2009. The 1st applicant is a Kenyan whilst the 2nd applicant is a German by nationality. J.W, the subject of these adoption proceedings is the biological child of the 1st applicant. She was born to the 1st applicant on 24th April 1996. The biological father of the child abandoned the 1st applicant upon discovering that she was pregnant with the child. The 1st applicant has brought up the child from the time she was born until her marriage. The applicants desire to formally and legally adopt the child so as to enable the 2nd applicant, the husband of the 1st applicant, to assume parental rights and responsibility over the child. The applicants further desire to adopt the child to enable the child acquire the nationality of the 2nd applicant. Both applicants work in the tour and travel industry. To enable them adopt the child, the applicants were assessed by Little Angels Network adoption society and by the Director of Children Services.

This court had the benefit of reading the two reports prepared by the two organizations. It has also read reports prepared by M.H, the guardian ad litem. The three reports are favourable and recommend the proposed 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 respectively of Kenyan and German nationality. They established that they have the financial and emotional capability and capacity to take care of the child. In the period of more than eight (8) years that the child has been in the joint 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. The proposed adoption is within the family set up. 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 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 read the letter dated 11th February 2010 issued by the German Embassy at Nairobi. The said letter confirms that the German government will recognize the adoption order issued by this court provided that the proceedings conform to the German Adoption Laws. It further states that if the adoption order is issued by this court, it shall be recognized formally by a competent

German Family Court. It is therefore apparent that the child shall be accorded German citizenship if an appropriate application is made by the applicants in Germany.

The court will therefore allow the applicants' application to adopt the child. They have fulfilled the legal requirements for local adoptions by a married couple. The applicants, D.W.K and C.T, are hereby allowed to adopt J.W. Henceforth, the child shall be known as J.W.T. D.N 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 27TH DAY OF APRIL, 2011

**L. KIMARU
JUDGE**