



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO.78 OF 2010**

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

**AND**

**IN THE MATTER OF BABY V – MINOR**

**C.K.M.....**

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

**G. K.K.....**

**.....2<sup>ND</sup> APPLICANT**

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

The applicants, C.K.M and G.K.K, are husband and wife. They were married under customary law in 2003. They however converted their marriage into a statutory one on 19<sup>th</sup> May 2009 when they got married under the **Marriage Act** at the Registrar’s office in Nairobi. The 1<sup>st</sup> applicant was previously married to one J.N K. Their marriage was blessed with one child, namely J.K. The child was born on 1<sup>st</sup> August 1996. J.N.K died on 13<sup>th</sup> February 2002 at Kenyatta National Hospital. She left the child in the custody of the 1<sup>st</sup> applicant. The said child was formally adopted by the applicants in **Nairobi HC Adoption Case No.77 of 2010**. The adoption order was issued on 8<sup>th</sup> April 2011. After getting married, the applicants discovered that the 2<sup>nd</sup> applicant could not conceive on account of the fact that she had uterine fibroids. The 2<sup>nd</sup> applicant underwent surgery. Unfortunately, her problem of failure to conceive was not resolved. The applicants then made the decision to adopt another child to keep company their other adopted child.

Baby V (the child) was presumed to have been born on 3<sup>rd</sup> July 2008. She was abandoned at Kahawa area opposite Kahawa Barracks on 24<sup>th</sup> July 2008. At the time, the child was approximately two weeks old. The abandonment was report at Kahawa Sukari police station. The child was taken to Mother Teresa Missionaries of Charity, Huruma Children’s Home

for temporary care and protection pending formal court proceedings. The child was committed to the care of the said Children's Home on 5<sup>th</sup> September 2008 by the Nairobi Children's Court. Efforts by the police and other relevant agencies to trace the whereabouts of the biological parents of the child have been unsuccessful. This court therefore dispenses with the consent of the said biological parents of the child. The child was declared free for adoption on 25<sup>th</sup> September 2009 by Little Angels Network adoption society. The applicants took care and custody of the child on 5<sup>th</sup> June 2009 for compulsory foster care pending these adoption proceedings.

The applicants were assessed by Little Angels Network, the adoption society and by the Director of Children's Services. The two organizations recommend the proposed application by the applicants to adopt the child. J. 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 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 two (2) 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 proposed 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 local adoptions by a married couple. The applicants, CKM and GKK, are hereby allowed to adopt

V. Henceforth, the child shall be known as KWK. INM and JMK shall be the legal guardians 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 27<sup>TH</sup> DAY OF APRIL, 2011**

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