



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**  
**ADOPTION CAUSE NO.184 OF 2010**

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

**AND**

**IN THE MATTER OF BABY A.N *alias* D – MINOR**

K.N.M.....

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

L.M.N.M.....

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

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

The applicants, K.N.M and L.M.N.M, are husband and wife. They were married in Kitui District on 24<sup>th</sup> September 1994 under the **African Christian Marriage and Divorce Act**. The applicants have been blessed with one biological child, a son, who is fourteen (14) years old. The applicants wish to adopt a child, specifically a female child, to enable them fulfill their obligation as Christians to help a needy child secure a home in their family. The 1<sup>st</sup> applicant is a businessman with an interest in the hotel industry. The 1<sup>st</sup> applicant also operates an auctioneering firm. The 2<sup>nd</sup> applicant is a senior staffing officer at the TSC. Baby A.N also known as D is a twelve year old girl. She was abandoned soon after her presumed birth on 1<sup>st</sup> August 1998 at Kwa Njenga slums in Nairobi. She was rescued by a good Samaritan and taken to Embakasi police station. The child was admitted at Thomas Barnado Home on 2<sup>nd</sup> August 1998. The Children’s Court at Nairobi committed the care and custody of the child to the said Children’s Home on 26<sup>th</sup> October 1998. From the documents filed in court, it was apparent that the child was placed

with foster parents who, unfortunately, mistreated her. This resulted in the child being returned to the said Thomas Barnado Home. The police were unable to trace the whereabouts of the biological parents of the child. The consent of the biological parents of the child is therefore dispensed with for the purposes of these adoption proceedings. The child was declared free for adoption by Kenya Children's Home adoption society on 13<sup>th</sup> April 2010. The child was placed under the care and custody of the applicants on 12<sup>th</sup> April 2010. Since then, the child has been under the custody of the applicants. The child is a pupil at Loreto Convent, Msongari in Nairobi.

The applicants were assessed by Kenya Christian Homes adoption society and by the Director of Children's Services. The two organizations recommends the proposed application by the applicants to adopt the child. A.W.N, 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 a year 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. It was apparent to the court that the child was traumatized by the treatment that was meted to her by the foster parents in the earlier failed attempt at adoption. This court is encouraged by the fact that the applicants are willing to undergo psychological counseling training to enable them bring up the child as an ordinary, well rounded and confident child. This shows the applicants' desire to bring up the child under the normal circumstances that they have brought up their biological child. 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 a local adoption by a married couple. The applicants, K.N.M and L.M.N.M, are hereby allowed to adopt baby A.N also known as D. Henceforth, the child shall be known as D.M.N. A.K. M and E.W.K 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**