



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ADOPTION CAUSE NO. 77 OF 2010**

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

**AND**

**IN THE MATTER OF J.K – 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 were married under the **Marriage Act** at the Registrar’s office in Nairobi. The 1<sup>st</sup> applicant was previously married to J. N. K. Their marriage was blessed with one child, namely J.K (the child that is in subject of these adoption proceedings). 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. Since getting married to the 1<sup>st</sup> applicant, the 2<sup>nd</sup> applicant has wished to formalize her relationship with the child by formally adopting him hence these adoption proceedings. She has been supported in her application by the 1<sup>st</sup> applicant, the biological father of the child. P.W.K, the maternal grandmother of the child has given her consent to the proposed adoption. The child has been under the care of the 1<sup>st</sup> applicant since he was born. He has been under the care of both applicants since the applicants were married in 2003. When the applicants expressed their desire to adopt the child, a certificate freeing the child for adoption was issued by Little Angels Network Adoption Society on 3<sup>rd</sup> March 2010.

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. I.N.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 male child. The applicants are Kenyan citizens by birth. The adoption is within the family. They established that they have the financial and emotional capability and capacity to take care of the child. In the period of more than fourteen (14) years that the child has variously 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 he 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, C.K.M and G.K.K, are hereby allowed to adopt J.K. Henceforth, the child shall be known as J.K.K. I.N.M and J.M.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 8<sup>TH</sup> DAY OF APRIL, 2011**

**L. KIMARU  
JUDGE**