

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.110 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF J.M.M – MINOR

J.K.M.....

.....1ST

APPLICANT

G.W. K.....

.....2ND

APPLICANT

J U D G M E N T

The applicants, J.K.M and G.W.K, are husband and wife. They were married under Kikuyu customary law in 1986. They converted their marriage to a statutory one on 2nd March 2001 when they got married at the Registrar’s office in Nairobi under the **Marriage Act**. The applicants have been blessed with three (3) biological children of their own aged between 24 years and 16 years. The applicants wish to adopt baby J.M.M (the child). The child was born on 7th April 2010 to A.M.M, the nephew of the 1st applicant (i.e. he is the son of the late Prof. J.M, the elder brother of the 1st applicant) and P.N.M. The biological parents of the

child did not wish to keep the child. The applicants, upon becoming aware of the biological parents' wish, offered to adopt the child. The biological parents of the child gave custody of the child to the applicants soon after the birth of the child. The biological parents of the child have given their consent to the proposed adoption. This court is satisfied that the biological parents of the child voluntarily and willingly gave their consent to the proposed adoption. The said consents are duly filed. The proposed adoption is an adoption within the family set up. The child was declared free for adoption on 3rd June 2010 by KKPI adoption society. A certificate to that effect was issued and is in the court file. As stated earlier, the applicants have had custody of the child since the day he was born i.e. on 7th April 2010.

The applicants were assessed by KKPI, the adoption society and by the Director of Children's Services. The two organizations recommend the application by the applicants to adopt the child. T.K.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 male 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 about a year 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 his 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 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 requirement for a local adoption by a married couple. The applicants, J.K.M and G.W.K, are hereby allowed to adopt baby J.M.M. Henceforth, the child shall be known as J.M.M.K. M.M.K 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 1st DAY OF APRIL, 2011

L. KIMARU
JUDGE

