



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

**AND**

**IN THE MATTER OF BABY F.B – MINOR**

**J. M.M.....1<sup>ST</sup> APPLICANT**  
**V.S.H.....2<sup>ND</sup> APPLICANT**

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

1. The Applicants hereinabove, seek orders under Sections 154, 156(1), 157(1), 158(1)(2)(d) and 4(a), 159(4), (6), (7) and 8(a), 160(1), (2) and (4), 162, 163, 164(1) and 170 of the Children’s Act, No.8 of 2001 as well as Section 24 of the Interpretation and General Provisions Act, Cap.2, Laws of Kenya and in the Originating Summons dated 1<sup>st</sup> June 2011, they specifically sought orders that one, C.W.O, be appointed guardian ad litem and that the Director – Children’s Department Ministry of Gender, Children and Social Development do investigate the applicant’s fitness to adopt the child Baby F.B (hereinafter “the child”) before any adoption order can be made.
2. I note that a guardian ad litem was appointed on 11<sup>th</sup> March 2011 by Kimaru J. and the report by the Director of the Children’s Department in the Ministry of Gender, Children and Social Development was filed on 12<sup>th</sup> May 2011 and therefore the only issue left to be determined is whether the Applicants should be granted orders to adopt the child, subject of these proceedings.
3. I have taken into account the following documents:
  - (i) An Affidavit sworn on 1<sup>st</sup> March 2011 by the 1<sup>st</sup> Applicant.
  - (ii) A Statement of Facts dated 1<sup>st</sup> March 2011 by the Applicants, jointly.
4. In summary, the contents of both documents are that the Applicants were born in Finland on 12<sup>th</sup> June 1974 and 3<sup>rd</sup> June 1974 respectively. Further that they have a four (4) year old biological daughter, V.
5. That the child was born or about 3<sup>rd</sup> October 2009 at Vihiga District Hospital and was thereafter abandoned by the mother. The matter was reported at Mbale Police Station on 22<sup>nd</sup> September 2009 and on 9<sup>th</sup> October 2009, the child was admitted to New Life Home in Kisumu. No one has claimed him since that day.
6. Apart from the two documents cited above, I have also read a Home Report for Inter-Country Adoption dated 31<sup>st</sup> October 2010 and in the Report, the Applicants are said to be fit adoptive parents. The Kenya National Adoption Committee has also approved their application for adoption of a Kenyan child by letter dated 15<sup>th</sup> September 2010, and the Director, Little Angels network was informed of that fact.
7. The Ministry of Social Affairs and Health of Finland has granted permission to the Applicants to adopt the child by a Decision dated 26<sup>th</sup> May 2011.
8. The Director of Children’s Services in the Ministry of Gender, Children and Social Development by a report dated 11<sup>th</sup> May 2011 has also recommended that the Applicants are fit and proper persons to adopt the child.
9. Apart from all the above, Little Angels Network by a report dated 16<sup>th</sup> June 2011 has declared that the child is free for adoption pursuant to Section 156(1) of the Children’s Act.
10. With the above information before me, I also find that in the present case, the Applicants have met the following conditions;
  - (i) They have received the relevant approvals from the relevant authorities in Finland and in Kenya.

(ii) The child in this case is under the age of eighteen (18) years as she was born on or around 3<sup>rd</sup> October 2009.

(iii) The child's best interests would be served if the Applicants take care and custody of him as his parents abandoned him at birth and although his biological mother, P.M gave birth to him at Vihiga District Hospital, she cannot be traced.

11. With that background, I should only restate the law as regards the issue at hand before granting the orders sought. Section 162 of the Children's Act clothes the court with discretion to make an international adoption order if it is satisfied that the conditions set out therein have been met and I have said the Applicants herein have done so.

12. In conclusion, I will order as follows;

(i) J.M.M and V.S.H are authorized by this court to adopt Baby F. B and the child shall henceforth be known as F.O – V. B. M.

(ii) The Registrar General is hereby directed to enter this order in the Adoption Register.

(iii) The guardian ad Litem is hereby discharged of any responsibilities over the child.

(iv) I shall make no order as to costs.

13. Orders accordingly.

**DELIVERED, DATED AND SIGNED AT NAIROBI THIS 20<sup>TH</sup> DAY OF AUGUST, 2011**

**I. LENAOLA**

**JUDGE**