



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

**AND**

**IN THE MATTER OF BABY M.A – MINOR**

**L.M.W.....1<sup>ST</sup> APPLICANT**

**E.C.S.....2<sup>ND</sup> APPLICANT**

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

1. The Originating Summons dated 2<sup>nd</sup> march 2011 seeks orders under Sections 154, 156(1), 158(1)(a) and 4(e), 159(1), (7) and 160, 163, 164 and 170 of the Children’s Act, No.8 of 2001 as well as Section 22 of the Interpretation and General provisions Act, Cap.2 Laws of Kenya that, initially, one P.O.O, be appointed guardian ad Litem and that the Director – Children’s Department do investigate the Applicants’ suitability or otherwise to adopt the child, M.A.
2. On 11<sup>th</sup> March 2011 Kimaru J. appointed the guardian ad Litem and the report by the Director of the Children’s Department in the Ministry of Gender, Children and Social Development was filed on 23<sup>rd</sup> May 2011. The only issue left to address at this point is whether the Applicants should be granted orders to adopt the child, subject of these proceedings.
3. I have read the contents of the following documents in support of the summons;
  - (i) A joint Affidavit sworn on 2<sup>nd</sup> March 2011 by the Applicants.
  - (ii) A Statement of Facts dated the same day by the applicants, jointly.
4. In summary, what I gather from the contents of the Affidavit and annexures to is that;
5. The applicants are both Swedish Nationals born on 30<sup>th</sup> November 1972 and 7<sup>th</sup> March 1967 respectively. That they reside at F, Sweden and have been married since 29<sup>th</sup> December 2006 and are both gainfully employed as professional musicians.
6. That the child was born on or around 5<sup>th</sup> April 2010 and was abandoned by her mother on 6<sup>th</sup> April 2010 and to date none of her biological parents have been traced.
7. Further, that the applicants have obtained the following authorizations, consents and recommendations to undertake the adoption;
  - (i) A Consent to receive a child domiciled abroad from the Swedish Social Welfare Committee, dated 21<sup>st</sup> July 2010.
  - (ii) A consent to adopt a child from the F District Council.
  - (iii) An Adoption Consent Report dated 16<sup>th</sup> December 2009 from the City of Stockholm.
  - (iv) A report dated 5<sup>th</sup> April 2009 from the Swedish Inter-Country Adoptions Authority.
8. Further, to the above, I also note that by letter dated 7<sup>th</sup> February 2011 addressed to the Kenya Children Homes Adoption Society, the National Adoption Committee authorized the intended adoption and the Kenya Children’s Home Adoption Society, by a report dated 8<sup>th</sup> March 2011 recommended the adoption and issued a Certificate No [particulars withheld] under Section 156(1) of the Children’s Act.

9. With the above information at hand I am satisfied that;

(i) The Applicants' have received the requisite approvals from the relevant authorities in Kenya and Sweden.

(ii) The child in this case is under the age of eighteen (18) years as she was born on or around 5<sup>th</sup> April 2010

(iii) The child's best interests would be served if the adoption order is granted as the Applicants' have shown that they will be able to acquire residence and/or citizenship for the child in Sweden and care for her emotionally, and materially.

11. Further Section 162 of the Children's Act grants this court the mandate 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, to my satisfaction.

10. In the end, I will order as follows;

(i) L.M.W and E.C.S are authorized by this court to adopt Baby M.A and the child shall henceforth be known as L.M.W.

(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.

11. Orders accordingly.

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

**I. LENAOLA**

**JUDGE**