



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO.142 OF 2005 (O.S.)**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**  
**AND**  
**IN THE MATTER OF S.N.K – MINOR**

**J.W.K.....APPLICANT**

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

The applicant, J.W.K is a sole female applicant. She is a widow. She was married to C.K in 1981 under Kikuyu customary law. Her husband died in December 2002. During the subsistence of her marriage, the applicant was not blessed with any children. She was diagnosed to have blocked fallopian tubes which prevented her from conceiving and bearing children. The applicant wishes to adopt S.N.K (the child). The child was found abandoned at Kawangware on 9<sup>th</sup> October 2001. At the time of her rescue, the child was about two (2) years of age. The child was taken to Dagoretti Children's Home. A report was made to the Children's Department. A further report was made to Kabete police station. The biological parents of the child have so far not come forward to claim the child. The applicant took custody of the child on 18<sup>th</sup> March 2003 for compulsory foster care pending formal adoption proceedings. Since then, the child has been under the care of the applicant. The police have so far not been successful in their attempt to trace the biological parents of the child. This court therefore dispenses with the consent of the said biological parents of the child. The child was declared free for adoption. A certificate to that effect was issued on 15<sup>th</sup> March 2007 freeing the child for adoption.

The applicant has been assessed by Child Welfare Society of Kenya, the Adoption Society and the Director of Children Services. The two organizations have prepared reports which have been filed in court. The said reports are favourable. They recommend the applicant's application to adopt the child. This court also had the benefit of reading the report prepared by W.M, the guardian ad litem. She recommends the adoption. This is a local adoption. The applicant is a sole female applicant. She has had custody of the child since 18<sup>th</sup> March 2003. In the period that the child has been in the custody of the applicant, she has bonded with the applicant. She considers the applicant to be her mother. The applicant established that she has the financial and emotional capacity to take care of the child. The applicant has fulfilled all the legal requirements in regard to 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 applicant. The applicant will provide a home and a family for the child to grow up in and be a useful member of the society. The applicant will be required to execute an undertaking that she shall assume all the parental rights and duties of the biological parents in respect of the adopted child; she shall treat the adopted child as if she was born to her; she has been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that she shall adopt; that the child shall have the right to inherit her property; that an adoption order cannot be recanted, and further, that she shall not give up the child owing to any subsequent unforeseen behaviours or other changes in the child.

In the premises therefore, the court will allow the applicant's application to adopt the child. The applicant, J.W.K is hereby allowed to adopt the child S.N.K. The child shall continue to be known by her assumed name S.N.K. M.W, the applicant's sister is hereby appointed to be the legal guardian of the child should any misfortune befall the applicant. The Registrar General is 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 26<sup>TH</sup> DAY OF NOVEMBER, 2010**

**L. KIMARU**  
**JUDGE**