



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO.8 OF 2008**

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

**AND**

**IN THE MATTER OF BABY H – MINOR**

**P.W.S.....1<sup>ST</sup> APPLICANT**

**J. A.A.O.....2<sup>ND</sup> APPLICANT**

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

The applicants, P.W.S and J.A.A.O, are husband and wife. They were married on 19<sup>th</sup> March 2004. The 1<sup>st</sup> applicant is currently a law student at [*learning institution withheld*]. The 2<sup>nd</sup> applicant, a [*profession withheld* ] is employed as a [*organization withheld* ]. She is currently based in Tanzania. The applicants have not been blessed with biological children of their own. However, the 2<sup>nd</sup> applicant prior to her marriage to the 1<sup>st</sup> applicant, legally adopted two (2) children namely, D.J.A and P.O.O. The two (2) children are now aged 12 and 11 years respectively. The applicants wish to adopt baby H (the child). The child was on 26<sup>th</sup> June 2004 found abandoned at Fedha estate in Nairobi. This was soon after she was born. She was rescued by a sister to the 2<sup>nd</sup> applicant called S.M.O. The child was admitted to Mater Hospital. A report was made to Industrial Area police station and to the Nairobi Provincial Children’s office. The applicants express wish to adopt the child. The Nairobi Provincial Children’s office allowed the applicants to have custody of the child pending formal adoption proceedings. The child was discharged from Mater Hospital on 14<sup>th</sup> July 2004. The applicants took custody of the child. Since then, the child has been under the custody of the applicants. The child has not known any other home other than the applicants’ home at Fedha estate in Nairobi.

In compliance with the requirements of the **Children Act** regarding local adoption, the applicants have been assessed by Child Welfare Society of Kenya, a duly registered Adoption Society, and by the Director of Children Services. This court has read the reports prepared by the said authorities. The two reports are favourable and recommend the adoption. The child was abandoned at birth. Her biological parents are not known hence they cannot be traced to give their consent to the adoption. This court therefore dispenses with the consent of the biological parents. The child was declared free for adoption on 27<sup>th</sup> January 2009 by Child Welfare Society of Kenya. A certificate to that effect was issued and is in court record. The applicants have established to the satisfaction of the court that they have the financial and emotional capacity and capability to take care of the child. The child has been in the continuous custody of the applicants since 14<sup>th</sup> July 2004. From the reports filed, it was evident that the applicants have bonded with the child. The applicants, especially the 2<sup>nd</sup> applicant, have demonstrated desire and willingness to take care of the adopted children. This is evidenced by the fact that the 2<sup>nd</sup> applicant had previously been allowed by this court to adopt two (2) other children. This court observed the child in the presence of the applicants during the hearing of this adoption cause. It was clear to the court that it would be in the best interest of the child if the applicants are allowed to adopt the child.

It was apparent to the court that 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 she 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 behaviours or other changes in the child.

In the premises therefore, this court will allow the applicants' application to adopt the child. The applicants, P.W.S and J.A.A.O, are hereby allowed to adopt baby Hope. Henceforth, the child shall be known as P.E.A. E.O, is hereby appointed to 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 11<sup>TH</sup> DAY OF NOVEMBER, 2010**

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