

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.89 OF 2010

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF L.G – MINOR

DR. K.K.K.....1ST APPLICANT

E.M.K.....2ND APPLICANT

J U D G M E N T

The applicants, Dr. K.K.K and E.M.K, are husband and wife. They were married on 14th December 1996. The 1st applicant is the head of infrastructure at [name of organization withheld] . The 2nd applicant is a marketer and works with the [name of organization withheld]. For thirteen (13) years after their marriage, the applicants were not blessed with any children. The applicants sought medical intervention to have children. Initially, the medical intervention was not successful. That prompted the applicants to consider the option of adopting the child. As fate would have it, the applicants were blessed with quadruplets soon after they had commenced the present adoption proceedings. However, despite their change of fortune, the applicants wish to proceed with adoption of the child. According to the reports filed, baby L.G (the child) who was born on 12th February 2008, was given up for adoption by her biological mother. At the time the child was offered for adoption, he was about nine (9) months old. The mother of the child gave up the child for adoption for reason that she was unable to financially provide for the child. The mother of the child signed consent surrendering the child for adoption. This court was satisfied, upon reading the said consent, that the mother of the child voluntarily gave up the child for adoption. By the said act of surrender, the mother of the child gave up her parental rights over the child. The child was surrendered to Thomas Barnado Home on 8th December 2008. On 23rd February 2009, the Children’s Court Nairobi committed the child to the care of the said Thomas Barnado House pending further court proceedings. The applicants took custody of the child on 1st October 2009. Since then, the child has been under the continuous care of the applicants in fulfillment of the legal requirement of compulsory foster care pending adoption.

The applicants were assessed by Kenya Children’s Home, a duly registered Adoption Society and the Director of Children’s Services. This court has benefited from reading the reports filed in court by the two organisations. This court has also read the report prepared by M.K, the guardian ad litem. All the above reports are favourable and recommend the application by the applicants to adopt the child. This is a local adoption. The child was voluntarily surrendered by his biological mother for adoption. The child was declared free for adoption. A certificate to that effect was issued by the adoption society on 14th April 2009. The applicants have established that they have the required financial, emotional and physical capacity and capability to take care of the child. In the period of more than a year that the applicants have

had custody of the child, it was evident to the court, from the reports filed in court, that the child has bonded with the applicants. The applicants have continued to give love and affection to the child despite being blessed with biological children of their own on 20th November 2009. This court is of the view that the applicants have fulfilled all the legal requirements for 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; 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, the applicants' application is hereby allowed. Dr. K. K. K and E.M.K, are hereby allowed to adopt baby L.G. Henceforth, the child shall be known as R.K.K. S.W.K and C.K.N are hereby appointed to be the legal guardians of the child should misfortune befall the applicants. 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 11TH DAY OF NOVEMBER, 2010

**L. KIMARU
JUDGE**