

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO.151 OF 2009

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY M *alias* BABY N.T – MINOR

J.O.M.....1ST

APPLICANT

L.O.....2ND

APPLICANT

J U D G M E N T

The applicants, J.O.M and L.O, are husband and wife. They were married on 6th August 1988 under the **African Christian Marriage and Divorce Act**. The applicants have been blessed with four biological children. They are all sons. They are now aged between twenty one (21) years and fourteen (14) years. According to the report filed by the Director of Children Services, the applicants, especially the 2nd applicant, were motivated to adopt a child despite having children of their own because of their desire to pay back to humanity having been assisted during their childhood to grow up to be useful members of the society. This was despite the fact that they are from humble backgrounds. The children of the applicants have consented to

the adoption of the child. Baby M alias Baby N.T was found abandoned at Uhuru Park in the Central Business District of Nairobi on 12th June 2007. The child was taken to Pumwani Maternity Hospital. A report of the abandonment was made to Parliament police station. On 29th June 2007, the child was taken to New Life Home, Nairobi for custody pending court proceedings. The Nairobi Children's Court did on 7th December 2007 commit the child to the care and protection of the said New Life Home. The child was placed under the custody of the applicants for compulsory foster care pending adoption proceedings on 15th December 2007. Since then, the child has been under the continuous care of the applicants.

In compliance with the requirements of the **Children Act** regarding local adoptions, the applicants were assessed by the Director of Children's Services and Little Angels Network, the adoption society. The two organizations prepared reports which have been duly filed in court. B.W.O', the guardian ad litem also filed her report. All the reports are favourable and recommend the adoption. The child was abandoned at birth. Her biological parents have not been traced to give their consent. Since her abandonment, no one has come forward to claim the child. The consent of the biological parents is therefore dispensed with. The child was declared free for adoption by Little Angels Network on 12th March 2008. A certificate to that effect was issued and is in the court record. The applicants have established that they have the financial and emotional capacity and capability to take care of the child. The child has been under the continuous care and custody of the applicants since 15th December 2007. From the reports filed, it is clear that the child has bonded with the applicants. 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 the child has indeed bonded with the applicants.

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 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, J.O.M and L.O, are hereby authorized to adopt baby M alias baby N.T. Henceforth, the child shall be known as P.N.O. R.N and S. K.R are hereby appointed to be the legal guardians of the child should such eventuality become necessary. 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 5TH DAY OF NOVEMBER, 2010

**L. KIMARU
JUDGE**