

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.189 OF 2009

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF T *alias* T.G – MINOR

W.K.W.....1ST APPLICANT

L.W.W.....2ND APPLICANT

J U D G M E N T

The applicants, **W.K.W** and **L.W.W**, are husband and wife. They were married on 29th May 1993 under the **African Christian Marriage and Divorce Act**. The applicants are employed respectively as finance officer and finance assistant. The applicants have been blessed with one child, a boy born on 22nd August 1997. The applicants have been unable to have another child since the 2nd applicant underwent an operation which went wrong and resulted in the 2nd applicant being unable to conceive another child. The applicants made a decision to adopt a child since they desire to have more children. T *alias* T.G, the child who is the subject of these adoption proceedings, was abandoned at birth by his biological mother on 22nd November 2004 at Annex Ward, Thika District Hospital. The abandonment was reported to Thika police station. The child was discharged from the hospital and taken to New Life Home for care and protection pending further court proceedings. On 7th December 2004, the Children’s Court at Thika gave custody of the child to the said New Life Home. On 6th June 2006, the applicants took custody of the child for compulsory foster care pending formal adoption proceedings. Since then, the child has been under the care and custody of the applicants.

The applicants were assessed by Little Angels Network, a duly registered adoption society and by the Director of Children Services. Reports have been filed in court by the two organizations. They are favourable and recommend that the applicants be allowed to adopt the child. This court has also read the report prepared by R.W.N, the guardian ad litem. She also recommends the adoption of the child by the applicants. From the said reports, it was clear that the applicants have fulfilled the legal requirements for a local adoption. The child was abandoned at birth by his biological mother. Since the said abandonment, no one has come forward to claim the child. The police were unable to trace the biological parents of the child. This court therefore dispenses with the consent of the biological parents. The child was declared free for adoption by Little Angels Network Adoption Society on 13th September 2006. A certificate to that effect was issued and is in the court record. The child has been under the continuous care and custody of the applicants since 6th June 2006. This court observed the child in the company of the applicants during the adoption proceedings. It was clear to the court that the child has bonded with the applicants. It is evident from the reports filed that the applicants have the financial and emotional capacity and capability to take care of the child.

This court formed the opinion that it would be in the best interest of the child for the adoption to be allowed. 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 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, **W.K.W** and **L.W.W**, are hereby authorized to adopt baby T alias T.G. Henceforth, the child shall be known as T.M.W. P.K.M 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.

DATED AT NAIROBI THIS 5TH DAY OF NOVEMBER, 2010

L. KIMARU
JUDGE