REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO.106 OF 2006 (O. S.)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF S. W *also known as* S. A - MINOR

G.O.W.....1ST APPLICANT

A. K. W.....2ND APPLICANT

J U D G M E N T

The applicants, G.O.W and A.K.W, are husband and wife. They were married on 12th August 1994. Since their marriage, they have not been blessed with any children. The applicants have not been able to have children due to medical reasons. They wish to adopt the child, baby S.W also known as S.A. The child was abandoned by her biological mother at Pumwani Maternity Hospital soon after birth. The child was born on 17th October 2002. After her abandonment, the child was taken to Imani Children's Home on recommendation of the Provincial Children's Officer, Nairobi. The child was committed to the custody and care of the said Children's Home by the Nairobi Children's Court vide **Protection & Custody Case No.122 of 2004**. The child was placed with the applicants for compulsory foster care on 20th February 2005.

The applicants have been assessed by Child Welfare Society of Kenya, the Adoption Society and the Director of Children's Services who have duly filed their reports in court. D.N, the guardian ad litem has also prepared a report. The said reports recommend the adoption. This is a local adoption. The child was abandoned at birth. The biological parents of the child cannot be traced to give their consent to this adoption. The consent of the biological parents is therefore dispensed with for the purposes of these

adoption proceedings. The child was declared free for adoption and a certificate to that effect issued by Child Welfare Society of Kenya on 22nd March 2010. The applicants have had custody of the child since 2005. The court had the opportunity of seeing the child with the applicants in court. It was clear to the court that in the period that the child has been in custody of the applicants, the child has bonded with them. Indeed, the child considers the applicants to be her parents. The applicants have exhibited financial and emotional capacity and capability to take care of the child. This court has evaluated all the facts of this case. It is evident 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 if the child is adopted by the applicants. The applicant 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.

This court will therefore allow the applicants' application to adopt the child. The applicants, G.O.W and A.K.W, are hereby allowed to adopt the child, S.W alias S. A . Henceforth, the child shall be known as S.A . R.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.

DATED AT NAIROBI THIS 4TH DAY OF NOVEMBER, 2010

L. KIMARU
JUDGE