



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KITALE**

**Adoption Cause 1 of 2009**

**IN THE MATTER OF BABY J:.....MINOR**  
**AND**  
**C.N.M.....APPLICANT**

**R U L I N G**

By an ex-parte origination summons dated 2<sup>nd</sup> April 2009, pursuant to the provisions of sections 154 (1) (b), 156 (1), 157 (1), 158 (4), 159 (1) (a) (2) and 163 & 170 (1) of the Children's Act No. 8 of 2001, and section 22 of the Interpretation of General Provisions Act (Cap 2) Laws of Kenya, the applicant seeks orders:

1. That the Children's Welfare Society of Kenya declare the child free for adoption.
2. That the director of the Children's Department do evaluate the applicant and file a report as to the fitness of the applicant to adopt the child and file a report.
3. That the consent of the biological father be dispensed with for reasons to be adduced at the hearing hereof.
4. That the applicant C.N.M be authorized to adopt the minor Baby J.
5. That the applicant be authorized to legally adopt Baby J (herein referred to for all common intents and purposes as the minor) who will be known as J.M.W.
6. That this honourable court be pleased to order that in the event of the applicant's death, permanent infirmity, insanity and/or any condition rendering her unfit to take care of the child Baby J , Mrs M.C.D of P O [...], Kapenguria be appointed guardian.
7. That this honourable court be pleased to make any further orders it deems fit and just.

The application is based on the grounds:

- (a) That the orders sought herein are in the best interest of the child.
- (b) That the applicant has no interest adverse to that of the child.
- (c) That the applicant is fully fit to provide for the child in all aspects.
- (d) That the interest of the child demands the grant of the orders sought herein.

The application is predicated upon the undated statement of C.N.M and the affidavit of M.C.D, sworn on 2<sup>nd</sup> April 2009 and J.G.N sworn on 2<sup>nd</sup> April 2009.

On behalf of the applicant, I was urged to find that the applicant C.N.M, is suitable to adopt the minor, Baby J, by reason of the fact that:

- (i) She is a Kenyan citizen and God fearing Christian.

- (ii) She is an adult of sound mind – born on 11<sup>th</sup> June 1965.
- (iii) She has a well paying job – professional secretary with the Ministry of A stationed at K.
- (iv) She has stayed with the minor – Baby J since 21<sup>st</sup> June 2005 when the minor was handed over to her by the Child Welfare Society of Kenya.
- (v) That she is a responsible person – married – but has children of her own.
- (vi) She is taking good care of the minor – enrolled at S.F Academy Nursery School.
- (vii) She is philanthropic – she has not agreed to receive and no person has made or given or agreed to make or give her any payment or reward in consideration of the adoption.
- (viii) She has no interest in this matter adverse to those of the infant.
- (ix) If an adoption order is made, she proposes that the minor be known as J.M.W.

The application is further supported by the affidavit of fitness of J.G.N. He avers inter-alia that:-

- (i) He has known the applicant herein for over 20 years. He is a close friend and also business associate of the applicant.
- (ii) The applicant is conscious and keenly aware of what she has been called upon to do in her capacity as **Guardian Ad Litem** of the minor.
- (iii) The applicant is objective and able to discharge her duties completely.
- (iv) The minor is staying and schooling courtesy of the applicant.
- (v) That the applicant has no interests in the matters which are adverse to those of the minor.
- (vi) The applicant consents and hence should be appointed **Guardian Ad Litem**.

On the premises I hereby give the following orders:

- (i) The Director of Children’s Department do file a report including but not limited to suitability of the proposed adopting parents.
- (ii) The consent of the biological father or mother be dispensed with since the biological father is unknown and the biological mother absconded.
- (iii) Thereafter the applicant may proceed to file a chamber summons pursuant inter-alia to sections 156 and 157 of the Children’s Act, Act No. 5 of 2001, section 24 of the Interpretation and General Provisions Act (Cap 2) Laws of Kenya and any other enabling provisions of the law.
- (iv) The said chamber summons to be fixed for hearing in the Registry in the normal manner.

Dated and delivered at Kitale this.....27<sup>th</sup> ...day of.....**JULY**.....2009.

**N.R.O OMBIJA**  
**JUDGE**

**Mrs Munialo for applicant**