



**NM AND**

**CKM ..... APPLICANTS**

**JUDGMENT**

The Applicants were married on 11<sup>th</sup> December, 1999. They are born in 1970 and 1976 respectively.

They were unable to conceive and that is the reason they took over the care of the child since 1<sup>st</sup> November, 2002. But as the fortune had it, they gave birth to a male child on 16<sup>th</sup> February, 2004.

The 1<sup>st</sup> Applicant is a lecturer at [particulars withheld] and the 2<sup>nd</sup> Applicant is a business lady. Their bank statements are produced. Their background has been sufficiently depicted in the report dated 25<sup>th</sup> September, 2007 from the Director of Children Services. They are educated, religious and socially upright couple. They have steady loving marriage. They are also blessed with a son while they were fostering the child in question.

I must state here that I was very impressed with the confidence of the child when he came before me. He struck me as a very happy and smart child. I had thus to remove the child from the court as he was not aware of his background and he would have received a shock if he could have known from what was to be presented before the court. The child in my view, has bonded very well with the applicants.

As against that the child who was born on 9<sup>th</sup> August, 2002 is a taboo child born of an incestuous relation. Thus on the birth (after three days), the child was offered for adoption and both the father and mother consented to the offer and relinquished all the claims on the child. Similarly, father and mother of the child's mother also gave their consent.

The Chief of [particulars withheld] witnessed those consents. Thereafter, the District Children Officer, Vihiga by a letter Ref.VHG/DCO/1BF/8/1/940/28 dated 12<sup>th</sup> August, 2002 referred the child to New Life Home, Kisumu on 12<sup>th</sup> August, 2002, and from there on 29<sup>th</sup> August, 2002 the child was transferred by Children Court Nairobi vide committal order P&C No.251 of 2005 dated 21<sup>st</sup> September, 2005 to the New Life Home, Nairobi. But the child was handed over under care and custody of the Applicants by the Home in November, 2002. Since that day the child is brought up by the Applicants.

The child is declared free for adoption on 9<sup>th</sup> March, 2006 vide certificate [particulars withheld] of Little Angels Network, the Licensed Adoption Society under the Act.

The Director of the Children Services and the said Adoption Society have prepared and filed their detailed assessment reports which are carefully perused by me. In short the said reports state that the Applicants are fit and capable persons to look after the child who has bonded as their own son with them as well as with their biological son who is younger to him.

The Guardian ad litem also has filed a very detailed report on 24<sup>th</sup> April, 2005 and stated that “*every child deserves to be raised in a perfect looking family set up, Dickens found that at Nzilus*”

In view of the aforesaid, I am satisfied that the Applicants are capable and apt persons to be given the responsibility of the child.

I thus authorize them to adopt the child who shall be known as KN whose birth date is 9<sup>th</sup> August, 2002.

The orders be recorded in the Adoption register.

I discharge the guardian ad litem.

Dated, Signed and Delivered at Nairobi this 17<sup>th</sup> day of July, 2009.

**K.H. RAWAL**

**JUDGE**

**17.7.09**