



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Adoption Cause 144 of 2007**

**IN THE MATTER OF APPLICATION FOR THE ADOPTION OF BABY K. H BY C.T. H and F.M.N**

**AND**

**IN THE MATTER OF THE CHILDREN ACT, 2001 (PART XII)**

**J U D G M E N T**

Before me is an **AMENDED ORIGINATING SUMMONS** dated 27<sup>th</sup> November, 2007 filed by M/S Ochieng Ogutu & Company advocates for the applicants named as **C.T.H** and **F.M.N** for the adoption of baby **K.H**. The prayers for my decision now are prayers 3, 4 & 5 as follows-

1. ....
2. ....
3. **THAT the applicants be authorized to adopt K.H and the child be called J. T henceforth.**
4. **THAT the honourable court be pleased to dispense with the consent of the biological parents of the child on the grounds that the child's mother gave her up for foster care and protection immediately after birth and has not claimed him back since then.**
5. **THAT the Registrar-General do make the appropriate entries in the Adopted Children's Register in respect of the child.**

I have considered the application, reports filed and verbal submissions made before me. The child is an incestuous child from Western Kenya. The mother of the child was herself a minor of 16 years when she gave birth. She delivered the child up for adoption because in the Luhya Community, such a child from an incestuous relationship is treated as a bad omen and cannot be brought up in the community.

The applicants are Kenyans and have reasonable means of income. They are a married couple. They have lived with the child for sometime now, and have bonded well with the child. The reports filed are to the effect that the adoption will be in the best interest of the child. I agree and find that the adoption is in the best interests of the child.

I therefore allow the application and grant prayers 3,4 and 5 above.

Dated and delivered at Nairobi this 30<sup>th</sup> day of October, 2009.

**George Dulu**

**Judge.**