



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Adoption Cause 180 of 2006**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF ASA (A CHILD)**

**JUDGMENT**

By originating summons dated 14.11.06, P. W. G. and I. K. G. of P.O. Box No. [Particulars withheld], Nairobi applied, *inter alia*, for the following order, namely:-

THAT the applicants be authorized to adopt A. S. A., to be known as R. W. K.

At the hearing of the application, the applicants were represented by learned counsel, Miss H.K. Kang'ethe.

The law under which the application was brought was initially not stated. When the matter was drawn to applicants' counsel's attention, she filed a supplementary affidavit sworn on 18.03.08 citing Part XII of the Children Act, 2001 generally and section 154 in particular. No copy of the applicant's marriage certificate was annexed to the statement in support of the application as stated therein but it was later availed vide the supplementary affidavit. Such omissions do not reflect well on counsel.

Salient facts pertaining to the application may be summarized as under.

The applicants are Kenyan citizens. They are wife and husband, respectively, having got married to each other on 05.06.04 at Nairobi under the African Christian Marriage and Divorce Act, Cap.151. They have been married for about 3½ years but have not been blessed with any children owing to medical problems on the part of the 1<sup>st</sup> applicant, hence their decision to adopt. Regulation 19 (d) of the Children (Adoption) Regulations, 2005 (Legal Notice No.43 of 2005) is to the effect that adopters, in the case of joint applicants, should have been married for at least three years prior to the date of commencement of adoption arrangements. This requirement has been met.

The 1<sup>st</sup> applicant, P. W. G. was born on 18.09.71 and is aged around 26 years. The 2<sup>nd</sup> applicant, I. K. G. was born on 31.12.70 and is aged about 27 years. The child to be adopted, a Kenyan girl, was born on (particulars withheld) and is aged (particulars withheld). Section 158 (1) (a) of the Children Act is to the effect that for the applicants to qualify as adoptive parents, they or at least one of them should have attained the age of 25 years and be at least 21 years older than the child but should not have attained the

age of 65 years. These statutory age requirements have been met.

Both applicants are in the tourism industry. The 1<sup>st</sup> applicant earns about Kshs.20,000/= per month. The 2<sup>nd</sup> applicant earns Kshs.100,000/= net per month. They own ¼

acre of land at Syokimau in Mlolongo on the way from Nairobi to Athi River. The plot is not yet developed but the applicants intend to build a house there for themselves. It is the applicants' intention that the child to be adopted should inherit their estate.

The 1<sup>st</sup> applicant, who gave oral evidence before me, confirmed that she and the 2<sup>nd</sup> applicant have bonded well with the child, whom they have fostered since September, 2005.

The child to be adopted was abandoned by her biological mother at (particulars withheld), Nairobi immediately after birth and has not been claimed by anybody.

Little Angels Network, a registered adoption society in Kenya has declared the child free for adoption as required by law.

The child's guardian *ad litem*, P. W. K. has recommended the proposed adoption.

W. K. a resident of Nairobi and of P.O. Box [particulars withheld], Thika has consented to act as the child's legal guardian in the event that the applicants die before the child attains majority age.

The Director, Children's Services has reported that the applicants have bonded with the child. The said Director has also recommended the proposed adoption.

The child was abandoned immediately after birth and has not been claimed. I dispense with the child's biological parents' consent to the proposed adoption.

I am satisfied on evidence tendered before court that the applicants meet the legal requirements and social parameters for adoptive parents, that the applicants are fit and proper persons to adopt the child and that it is in the child's best interests to be adopted by the applicants. Accordingly, I make an order under section 154 (1) of the Children Act, 2001 authorising the applicants, P. W. G. and I. K. G. to adopt the child, A. S. A. who shall henceforth be known as R. W. K.

The Registrar – General is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

**Delivered at Nairobi this 21<sup>st</sup> day of April, 2008.**

**B.P. KUBO**

**JUDGE**