



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Adoption Cause 6 of 2006**

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

**AND**

**IN THE MATTER OF BABY F M (A CHILD)**

**JUDGMENT**

By originating summons dated 10.01.06 and filed on 20.01.06 stated to be brought under sections 154; 156 (1); 157(1); 158 (1) (a), (4) (a); 159 (4), (6), (7), 8 (a); 160 (1), (2), (4); 163; 164 (1) and 170 of the Children Act, No.8 of 2001 and section 24 of the Interpretation and General Provisions Act, Cap.2, KAO and GMO of P.O. Box **[particulars withheld]**, Nairobi applied, *inter alia*, for the following substantive order, namely:-

THAT the applicants be authorized to adopt BABY FM to be known as FOD.

The applicants were represented at the hearing of these adoption proceedings by learned counsel, Miss L.W. Kigwatha.

Salient facts regarding the adoption application may be summarized as under.

Both applicants are Kenyans. They are husband and wife, respectively, having contracted a statutory marriage under the African Christian Marriage and Divorce Act, Cap.151 on 06.01.01 at P.C.E.A. Loresho Church, Nairobi. They profess the Christian faith and expect to bring up the child in the same faith. They have been married for over 5 years, which satisfied the requirement of regulation 19 (d) that adopters, in the case of joint applicants, should have been married for at least 3 years prior to the date of commencement of adoption arrangements.

The 1<sup>st</sup> applicant, KAO was born on 23.03.74 and is aged around 33 years. The 2<sup>nd</sup> applicant, GMO was born on 10.10.75 and is aged around 32 years. The child to be adopted was born on 01.01.04 and is aged around 3 years 2 months. This satisfies the requirements of section 158 (1) (a) of the Children Act that the applicants 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.

The child to be adopted, Kenyan boy, was abandoned at P.C.E.A. Church, Kinoo after birth. He was rescued by a 'good Samaritan' and taken to Kikuyu Police Station which later handed him over to New Life Home Trust, on 05.01.04. Nairobi Senior Resident Magistrate's Children's Court formally committed the child to New Life Home Trust on 07.09.05. The applicants received the child from New Life Home on 14.10.05 for fostering and have fostered him ever since. The child's biological parents are unknown and have laid no claim on the child. Efforts by the Police to trace the biological parents have

been fruitless. New Life Home has consented to the proposed adoption. I dispense with the child's biological parents' consent to the proposed adoption as I am authorized by law so to do.

The applicants have not been blessed with any biological children. Both have indicated they love children and have opted to adopt the subject child, to provide a family for him and take care of him.

The 1<sup>st</sup> applicant, KAO works as a Senior Accounts Executive with Glaxo Smithkline in Nairobi and is reported to earn a salary of Kshs.103,000/= per month. The 2<sup>nd</sup> applicant, Grace Muthoni Otieno works as a Medical Representative with Phillips Pharmaceuticals Limited in Nairobi and is reported to earn a salary Kshs.45,000/= per month. Both have a 2 – bedroomed house in Nairobi South B for which they are still paying a mortgage. They own a business engaged in distribution of promotional items which they import. They also own two motor vehicles plus undeveloped plots in Asembo. In short, the applicants are people of sound financial means and are capable of taking good care of the child to be adopted.

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

The guardian *ad litem*, Andrea Wafula Balongo has vide his affidavit sworn on 11.12.06 recommended the proposed adoption as being in the best interests of the child.

The Director, Children's Services has in his report dated 23.10.06 recorded that there is perfect bonding between the applicants and the child and also that the applicants have requisite support from their wider family.

The applicants have appointed OO and CO to be joint legal guardians in the event of their (applicants') death or other incapacity before the child attains majority age and self-reliance. The proposed legal guardians have given written consent to so act.

I am satisfied from 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 subject 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, KAO and GMOO to adopt BABY FM who shall henceforth be known as FOD. The Registrar-General is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

**Delivered at Nairobi this 28<sup>th</sup> day of March, 2007.**

B.P. KUBO

JUDGE