



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Adoption Cause 89 of 2005**

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

**AND**

**IN THE MATTER OF BABY PA(A CHILD)**

**JUDGMENT**

By originating summons dated 24.06.05 and filed the same day under sections 157 and 160 of the Children Act, 2001, SAO applied, *inter alia*, for the following substantive order, namely:-

**That the applicant be authorized to adopt BABY PA and that the child be called PCA upon adoption.**

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

The applicant, a female, was born in 1960 and is now aged around 46 years old. She is a single mother, with a biological daughter now aged about 6 years. The child to be adopted, a girl, was born on 21.02.04 and is now aged about 2 years 7 months. Section 158 (1) (a) of the Children Act is to the effect that for the applicant to qualify as an adoptive parent, she has to 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 in this case.

The applicant is a medical doctor and works as Regional Director for Africa of Planned Parenthood Federation of America. She has been with that organization for the last 3 years. She has stated that her main motivation for wanting to adopt a child is the desire to help a needy child and also to provide her own daughter with company. The report of 26.06.06 from the Director of Children's Services records that the applicant does not know why she is not married but she added that marriage has never been her priority.

Reports relating to the applicant's level of earnings seem to be inconsistent. According to a report of 29.11.05 by Kenya Christian Homes, she gave her earnings as Kshs.480,000/= per annum gross and Kshs.360,000/= per annum net. The latter figure translates to Kshs.30,000/= net per month as at November, 2005. According to a report of the Director of Children's Services dated 26.06.06, she gave her earnings as Kshs.250,000/= net per month. However, according to the report of the *guardian and litem*, Susan Achieng Otuoma dated 14.09.06, the applicant gave her earnings as Kshs.320,000/= per month but it is not indicated whether this figure is gross or net. The applicant lives in a 3 – bedroomed house at Hurlingham, Nairobi for which she pays rent of Kshs.35,000/= per month and where she lives with her biological daughter and the child she desires to adopt. She has a pension scheme with her employer to which she contributes Kshs.40,000/= per month. It would not be possible for her to pay rent of Kshs.35,000/= per month for the Hurlingham house and Kshs.40,000/= per month towards her pension scheme if her earnings were at the level of Kshs.30,000/= per month. It is likely to be at the level of Kshs.250,000/= net per month. The applicant is reported to own a 3 – bedroomed house on a 2½ acre piece of land at Kitengela in the outskirts of Nairobi. I am satisfied that the applicant earns good income to cater for her own needs and those of her biological daughter as well as the child she wants to adopt.

The child to be adopted was born prematurely on 21.02.04 along Uhuru Highway, Nairobi to EAW. The mother and the baby were taken to Nairobi Women's Hospital the same day but the mother abandoned the baby at the hospital soon thereafter. The baby remained at the hospital until 22.03.04 when she was transferred to New Life Home Trust, Nairobi for foster care on the strength of a committal

order issued by the Nairobi Senior Resident Magistrates Children's Court. The child was placed with the applicant, who is a Kenyan like the child, on 21.08.04 and has been under the applicant's foster care ever since. The child's birth certificate does not indicate who the biological father is. The biological mother has never claimed the child since abandoning her soon after birth in February, 2004. New Life Home Trust has no objection to the proposed adoption of the child, a girl, by the applicant who is a sole female applicant. I dispense with the child's parents' consent for the proposed adoption. The child is clearly free for adoption.

The Director, Children's Services recommends the proposed adoption as does also the *guardian ad litem*. Bonding is reported to have taken place between the applicant and the child to be adopted and also between the said child and the applicant's biological daughter.

I am satisfied on the evidence availed that the applicant meets the legal requirements and social parameters for an adoptive parent; that the applicant is a fit and proper person to adopt the child; and that it is in the child's best interests to be adopted by the applicant. This is a local adoption. Accordingly, I hereby make an order under section 154 (1) of the Children Act, 2001 authorising the applicant, SAO to adopt BABY PA who shall henceforth be known as PCA. The Registrar – General, Kenya is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

**Delivered at Nairobi this 6<sup>th</sup> day of October, 2006.**

B.P. KUBO

JUDGE