



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**Adoption Cause 36 of 2005**

**IN THE MATTER OF.....THE CHILDREN'S ACT**

**VERSUS**

**IN THE MATTER OF .....BABY J (AN INFANT)**

**JUDGMENT**

In this Adoption Cause, the applicants obtained orders on 31st March 2005 authorizing them to adopt the child herein. However, those orders which were made before the Statutory requirements that are stipulated under the Children's Act 2001, were complied with, were subsequently nullified as indeed the orders were null and void. This matter was therefore heard denovo before me. The applicants who have sought for order authorizing them to adopt baby Joyce, a baby girl who was born on or about 1st April, 2004 and was abandoned by the biological parents, shortly after birth and was rescued by a good Samaritan. The applicants are married to each other and they have been so married since 3rd April 1998. The 1st applicant is a Kenyan born in 1973 while the 2nd applicant is an Australian National born in 1978 respectively.

The 1st Applicant is an Accountant by profession while the 2nd applicant is a Teacher, both Applicants have been offered employment in Qatar, where they intend to settle for the duration of the contract of employment. Their suitability as adoptive parents was assessed by the Director Children's Service and a report was presented to the Court by Mrs Ndungu the Deputy Director of Children's Service. This report recommends the Applicants suitable parents. They have previously adopted another child in Kenya a girl child called Tashania Hope Knapp Sirengo in 1998. This is a child who is well adjusted and has fully integrated in their lives as they claimed this child has influenced their lives positively and inspired them to adopt the second child, firstly to give her a companion and secondly to share their life and space another child whom they can offer a better chance in life.

The Applicants have also been visited by the officers from the Children's Department at their home in Nairobi. According to the report, the parties earn a combined monthly income of about Ksh.240,000/= they rent a suitable accommodation where they have been sharing with the child.

As regards the child in this matter, the report by the Child Welfare Society shows that she was found abandoned in Zimmerman area of Nairobi by members of the public. The matter was then reported at Kasarani Police Station and it is the police who referred the child to the Missionaries of Charity Home on 4th May, 2004. The child was eventually placed under the foster care of the Applicants on 17th December 2004 and she has remained under their care to – date. The child is well looked after and her health has improved tremendously. The Applicants have also addressed themselves to issues of cross – culture. Their marriage is also a cross – culture and they are confident that they are ready to deal with the challenges.

I have given due consideration to all the material that was placed before me and had the advantage of interviewing the Applicants. I have also taken into account the provisions of the Children Act 2001 especially part XII, I am satisfied that the Applicants have fully fulfilled the requirements set out in the

law.

Accordingly, I am also persuaded by the material before me and through examination of the Applicants that this Adoption shall promote the best interest of the child who was abandoned.

The child will have an opportunity to grow up under the care and guidance of the Applicants and to enjoy the warmth of an elder sister.

Since the child was abandoned and was declared for adoption, I am satisfied that the consent of the biological parents could not be obtained and hereby dispense with the same.

Accordingly, I hereby grant the orders sought and authorize the applicants to adopt BABY J who shall henceforth be known as A M K S. It is so ordered.

Judgment read and signed on 3rd June 2005.

MARTHA KOOME

JUDGE