



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 69 OF 2004**  
**CONSLIDATED WITH**

**ADOPTION CAUSE NO.70 OF 2004**

**IN THE MATTER OF ADOPTION OF INFANT ACT CAP 143**  
**EM (MINOR) and EM**

**(Consolidated Judgment in Respect of Adoption Cause No. 69 of 2004**  
**and Adoption Cause No. 70 of 2004)**

**JUDGMENT**

This is a consolidated judgment in respect of two infants whereby the applicants CMand RM residents of [PARTICULARS WITHELD]in the U.S.A. They have sought for an order authorizing them to adopt EM aged about 3 years and EM aged 2 years. Both Infants are the biological children of LMM. The mother of the infants is deaf mute and mentally ill. She has never assumed any responsibility over these children. The grand mother GM assumed responsibility over the infants since they were born. Due to the psychiatric problems of the biological mother who has threatened to harm the children the grand mother who is ageing has devoted all her time to looking after the children and this has affected her ability to carry on with her small business of selling vegetables and reduced her into a pauper. According to the report filed by the Child Welfare Society, the children and grand mother live under deplorable conditions.

The principal applicant Rose Mwikali Msewe is related to the infants. She is the sister to the grand mother of the children and LMi the biological mother is the niece of the 1st applicant. This is therefore an adoption within the family.

The applicants are married to each other and they have been so married in a monogamous union since January 1980. The 1st applicant works part time and will find time to devote to these children. The 2nd applicant works as a psychology assistant for the Dallas County Juvenile Department which work involves helping people adjust to the society. The applicants have their own three biological children who are grown up. According to a homestudy report filed by Barbra Silverman a licensed Social Worker in Dallas dated 19th December 2003, the applicants are recommended for the adoption. They are responsible members of their community. They have sufficient experience in raising children and in addition they have been caring for foster children in their home. They have supported financial resources to care for two additional children who will enjoy medical and dental insurance cover by their employer. They have their owner occupied house that is spacious and will provide a secure home for the infants.

I have given due consideration to the reports filed by the Guardian Ad Litem, the Child Welfare Society and the Social Worker from the applicants home town as well as all the matters that I should consider under the Children Act 2001 part XII regarding the Adoption.

This is an adoption within a family. I am satisfied that the applicants have fulfilled all the conditions set out in the law. They have been evaluated and the reports filed recommend the adoption.

The order of adoption will promote the best interest and welfare of the infants. The applicants have also fulfilled a second obligation and providing a home and future to members of their family who are less fortunate. The two infants shall find a home, under the loving care and guidance of one of their relatives who have undertaken through this adoption to be responsible for their entire future.

Accordingly I grant the order of Adoption to the applicants as prayed in respect of

1. EM and

2. EM

It is so ordered.

Judgment read and signed on 5th April 2004.

**MARTHA KOOME**

**JUDGE**