



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO. 82 OF 2019(OS)**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF CHILD M.W.**  
**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

NTW .....1<sup>ST</sup> APPLICANT

JWW.....2<sup>ND</sup> APPLICANT

**JUDGMENT**

1. The applicants NTW and JWW are a couple aged 53 and 41, respectively. The 1<sup>st</sup> applicant is a British citizen and banker with the African Development Bank while the 2<sup>nd</sup> applicant is Kenyan and a home maker. The applicants solemnized their marriage on 20<sup>th</sup> July 2018 under marriage certificate number [Particulars Withheld]. They were blessed with one child MWM born on 8<sup>th</sup> February 2013. On 26<sup>th</sup> September 2019 they filed the amended originating summons dated 10<sup>th</sup> September 2019 seeking to adopt the child MW.
2. This is a kinship adoption. Child MW was born on 24<sup>th</sup> March 2009 in Langata to MN, the 2<sup>nd</sup> applicant's sister. The child has lived with the applicants since 2010. MN consented to the adoption and signed the necessary consent forms. The applicants have exercised parental responsibility over the child for over 10 years. The child has consented to the adoption. The applicants live both in Cote'voire and in Nairobi, and have property in Kenya. The child was declared free for adoption by Change Trust on 11<sup>th</sup> October 2018.
3. On 25<sup>th</sup> July 2019 the court appointed KWK as the guardian *ad litem* and ordered him and the Director of Children Services within 45 days to prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed both recommending the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.
4. On 2<sup>nd</sup> April 2020 I delivered a judgement where I dismissed the suit herein on the grounds that the 1<sup>st</sup> applicant had not provided evidence that, if this adoption was allowed, it would be recognized by the British Government and that the child would be granted resident status. Secondly, there was no evidence that the 1<sup>st</sup> applicant had been authorized and recommended by a competent British Government authority or court of competent jurisdiction as a person who is morally and financially fit to adopt the child.
5. The applicants have now come back to court by an application dated 4<sup>th</sup> February 2021, seeking review of the judgment. The 1<sup>st</sup> applicant has attached a letter from the British High Commission in Nairobi dated 28<sup>th</sup> January 2021 stating that the British Government has no role in assessing his suitability as he is not habitually resident in the U.K. The letter confirms that where the adoption has been effected on or after 3<sup>rd</sup> January 2014 and under the law of a country named on the **Adoption (Recognition of Overseas Adoptions) Order 2013**, such as Kenya the adoption is automatically recognized under English and Welsh law. From the foregoing, I am satisfied that the conditions as per **section 162** of the **Children Act (No. 8 of 2001)** have been met.
6. The court also takes note of the fact that this is a Kinship adoption, the child being the niece of the 2<sup>nd</sup> applicant. The necessary consents were obtained and the statutory reports by both the guardian *ad litem* and the Director of Children Services recommended the adoption. Lastly, the child has resided with the applicants since 2010, and consented to the adoption. These are sufficient reasons under **Order 45 rule 1** of the **Civil Procedure Rules, sections 4** of the **Children Act** and **Article 53(2)** of the Constitution to review the judgment delivered on

2<sup>nd</sup> April 2020.

7. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their capability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

- a) the applicants NTW and JWW are hereby allowed to adopt child MW.;
- b) Child M.W. shall henceforth be known as Mathew Waigwa Williams;
- c) the child's date of birth shall be 24<sup>th</sup> March 2009, and shall be presumed to be a Kenyan citizen having been born in Langata, Nairobi County in Kenya;
- d) that CWW is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicants before he is of full age and fully self-reliant;
- e) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
- f) the guardian *ad litem* is hereby discharged.

**DATED AND DELIVERED NAIROBI THIS 1ST DAY OF JULY 2021.**

**A.O. MUCHELULE**

**JUDGE**