



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO. 46 OF 2019 (OS)**  
**IN THE MATTER OF THE CHILDREN ACT, 2001**  
**AND**  
**IN THE MATTER OF BABY SE**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

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

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

**JUDGMENT**

1. The applicants DWA and CMM are a Kenyan couple aged 35 and 33, respectively. The 1<sup>st</sup> applicant is an engineer at [Particulars Withheld] Ministries while the 2<sup>nd</sup> applicant is a communication specialist with Population Services International. They contracted their Christian marriage on 6<sup>th</sup> September 2014. They have no child, on 12<sup>th</sup> April 2019 they filed this originating summons dated 11<sup>th</sup> March 2019 seeking to adopt Baby SE.

2. Baby SE was presumably born on 15<sup>th</sup> November 2017. She was found abandoned in a thicket in Mlolongo Phase 3 on 29<sup>th</sup> November 2017. The child was rescued by the area chief and community policing officer. The matter was reported at Mlolongo Police Station, vide O/B No. [...]. The child was placed at Mahali Pa Maisha Children's Home. On 22<sup>nd</sup> January 2018 the child was committed to the Home pursuant to an order made by the Resident Magistrate at Mavoko Law Courts under Protection and Care Case No. 1 of 2018. Police efforts to trace the mother and relatives of the child were not successful. The child was declared free for adoption by Buckner Kenya Adoption Services on 14<sup>th</sup> June 2018. On 24<sup>th</sup> June 2018 the child was placed with the applicants for bonding.

3. On 20<sup>th</sup> June 2019 the court appointed GWK as the guardian *ad litem* to the child and ordered her and the Director of Children Services to within 45 days 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 each recommending the applicants to 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. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability 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 her as if she 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. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.

5. 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 DWA and CMM are hereby allowed to adopt Baby SE.;

b) Baby SE shall henceforth be known as Z;

c) the child's date of birth shall be 15<sup>th</sup> November 2017, and shall be presumed Kenyan by birth having been found in Mlolongo in

Nairobi County in Kenya;

d) LMM and CKM are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before she 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 SIGNED at NAIROBI this 6<sup>TH</sup> FEBRUARY 2020**

**A.O. MUCHELULE**

**JUDGE**

**DATED and DELIVERED at NAIROBI this 13<sup>TH</sup> FEBRUARY 2020**

**A.N. ONGERI**

**JUDGE**