



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO.47 OF 2019**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF BABYA alias SNM**

**JMN.....1<sup>ST</sup> APPLICANT**

**LGM.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The two Applicants in this case, JMN and LGM (hereafter referred to as the 1<sup>st</sup> and 2<sup>nd</sup> Applicants respectively) have filed the Originating Summons dated 27.2.2019 seeking among other orders authority to adopt Baby A and to name him SNM(hereafter referred to as the child).
2. The Applicants are adult Kenyan Citizen born on 5<sup>th</sup> March 1987 and 26<sup>th</sup> May 1989 respectively.
3. They started staying together and officially solemnized their union on 10<sup>th</sup> April 2018. They have attached their Marriage Certificate Serial No.[...].
4. The 1<sup>st</sup> Applicant is a [particulars withheld] while the 2<sup>nd</sup> Applicant is a business woman who has her own [particulars withheld] business. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants have attached their financial statements to demonstrate their financial capability to take care of the child.
5. The 1<sup>st</sup> and 2<sup>nd</sup> Applicants have also attached their certificates of good conduct which demonstrate that they have no previous criminal record and they have also attached their medical reports
6. The child was found abandoned on 15.11.2017 at 0500 Hrs at Kiriani-Wahundura Road in Muranga County, Mathiyoya sub-county by a Good Samaritan who reported the matter to Kiriani Police Station.
7. The Police rescued the child who was wrapped in a very light and dump clothing and they booked the matter as OB No. [...].
8. The Child was rushed to Murang'a Referral Hospital where he was diagnosed with Neonatal Sepsis.
9. On 21.11.2017, the child was committed to Nest Children's Home and he was admitted formally vide care and Protection case No. 37 of 2017 the same date by Murang'a Children's Court.
10. The Police did two letters, the first dated 15.11.2017 and a final letter dated 31.5.2017 confirming that the whereabouts of the biological parents were unknown.
11. The Child was declared free for adoption on 14.6.2017 vide Certificate No. 6269 an placed with the Applicants on 29.6.2018.
12. The following Reports were filed in respect of this adoption.

**(i) The Guardian Ad Litem's Report dated 1.8.2019**

**(ii) Buckner Kenya Adoption Services Report dated 25.6.2019**

**(iii) The Director Children Services report dated 23.8.2019**

13. I have considered the Affidavits filed in the Originating Summons dated 27.2.2019 together with annexures thereto and also reports filed in respect of this adoption.

14. Finally, in deciding this matter I am obliged to adhere to **Section 4(2)** of the Children Act 2011, which provides:

*“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”*

15. I find that the Applicants have met the threshold for adoption of the child and I accordingly allow the adoption following terms:

**(i) THAT the Applicants JMN and LGM herein be and are hereby authorized to adopt baby A.**

**(ii) THAT the Child shall henceforth be known as SNM.**

**(iii) THAT the date of birth of the Child shall be 15.11.2017 and the place of birth Muranga County.**

**(iv) THAT the child shall be presumed to be a Kenyan Citizen by birth.**

**(v) THAT the Registrar General be and is hereby directed to enter the Adoption in the Adopted Children Register.**

**(vi) THAT HNM and GMM be and are hereby appointed Legal Guardians of the Child in case of incapacity of the Applicants before the child attains the age of the Majority.**

**(vii) THAT the Guardian Ad Litem be and is hereby discharged.**

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 7<sup>TH</sup> DAY OF FEBRUARY 2020.**

**ASENATH ONGERI**

**JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.**