



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 60 OF 2019 (OS)**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY JM**

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

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

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

**JUDGMENT**

1. The applicants JWM and AWW are a Kenyan couple aged 41 and 39, respectively. They are self-employed. They married customarily in 2004. They have no child. On 2<sup>nd</sup> May 2019 they filed this originating summons seeking to adopt Baby JM.
2. Baby JM was born on 15<sup>th</sup> April 2017 to EW birth certificate No. [...]. On 16<sup>th</sup> April 2017 the mother of the child was found by a good samaritan at Waruku Stage in Kawangware attempting to abandon the child. The matter was reported to Muthangari Police Station and recorded vide OB No. [xxxx]. She gave her contact to the Police but subsequent efforts to trace her were not successful. Neither could her relatives be traced. She left the child at the Police Station. On 16<sup>th</sup> April 2017 the child was taken to House of Charity Children's Home for care and protection. On 14<sup>th</sup> March 2018 the child was committed to the Home pursuant to an order made by the Nairobi Children's Court under Protection and Care Case No. 69 of 2018. The child was declared free for adoption by KPPI Adoption Society on 28<sup>th</sup> March 2018 vide certificate serial number [xxxx]. On 28<sup>th</sup> March 2018 the child was handed to the applicants for bonding.
3. On 11<sup>th</sup> July 2019 the court appointed GVC 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 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. This court dispenses with the consent of the child's biological parents or relatives as the child was abandoned in the Police Station.
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 JWM and AWW are hereby allowed to adopt Baby JM;
  - b) Baby JM shall henceforth be known as EMW;
  - c) the child's date of birth shall be 15<sup>th</sup> April 2017 and shall be presumed to be Kenyan by birth having been born by a Kenyan woman in Kawangware in Nairobi County in Kenya;

d) CMM and ENM are hereby appointed to be the child's legal guardians in the event of 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 AT NAIROBI THIS 6TH FEBRUARY 2020.**

**A.O. MUCHELULE**

**JUDGE**