

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.....1ST APPLICANT

JWW.....2ND APPLICANT

JUDGMENT

1. The applicants NTW JWW are a couple aged 53 and 41, respectively. The 1st applicant is a British citizen and banker with the [Particulars Withheld] Bank while the 2nd applicant is Kenyan and a home maker. The applicants solemnized their marriage on 20th July 2018 under marriage certificate number 231423. They were blessed with one child M.W.M. born on 8th February 2013. On 26th September 2019 they filed the amended originating summons dated 10th September 2019 seeking to adopt the child M.W.

2. This is a kinship adoption. Child M.W. was born on 24th March 2009 in Langata to MN, the 2nd 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 11th October 2018.

3. On 25th 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. Under **section 162** of the **Children Act (No. 8 of 2001)**, the 1st applicant has not provided evidence that, if this adoption is allowed, it will be recognised by the British Government and that the child will be granted resident status. Secondly, there is no evidence that the 1st applicant has been authorised 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. Until these conditions have been met, I will not allow this originating summons.

DATED and DELIVERED electronically, following consent of the parties, at NAIROBI this 2ND day of APRIL 2020.

A.O. MUCHELULE

JUDGE