



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**ADOPTION CAUSE NO. 36 OF 2016**  
**IN THE MATTER OF ADOPTION OF BABY TM**

**AND**

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

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

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

**JUDGMENT**

1. The applicants PKK and MMN are a Kenyan couple aged 50 and 47, respectively. The 1<sup>st</sup> applicant is a mechanical engineer who runs his own firm. The 2<sup>nd</sup> applicant does business. They have been married since 2000, and have no biological child. On 20<sup>th</sup> June 2014 they adopted their first child, a girl. In an application filed on 14<sup>th</sup> March 2016 they now seek to adopt Baby TM.

2. Baby TM was on 26<sup>th</sup> September 2014 found by two ladies to have been abandoned at their residential gate opposite [Particulars Withheld] in Kirinyaga County. The matter was reported at Mutithii A.P. Camp under OB 13/27/9/2004. The child was taken to Mutithii dispensary and then to Kimbimbi District Hospital where it was admitted. The incident was reported at Wanguru Police Station under OB xxxx. The child was discharged from the Hospital on 30<sup>th</sup> October 2014, and on the same day committed to New Life Children's Home at Nyeri by the Children Court at Wanguru in **Care and Protection Case No. 1 of 2014**. The child was declared free for adoption on 9<sup>th</sup> May 2015 vide certificate serial No. xxxx by Change Trust Adoption Society. On 17<sup>th</sup> July 2015 the child was given to the applicants for mandatory bonding before adoption. They have had him under their care and control since. The child has not been claimed, and efforts by police to trace its parents or relatives have not been successful.

3. On 21<sup>st</sup> April 2016 the court appointed EWG as the guardian *ad litem* and asked her to investigate the applicants regarding their suitability to adopt the child. The same was directed of the Director of Children Services. Each filed a report recommending the adoption. They were satisfied that the applicants and their other child had bonded well with the child who was well looked after. The applicants were socially and economically able to bring up the child.

4. The court finds that it is in the best interests 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 her. 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. The court dispenses with the consent of the biological parents of the child as he was found abandoned.

5. When this matter was before Justice Farah S.M. Amin, she expressed uncertainty about the actual names of the child. An affidavit has been filed by Change Trust's Managing Trustee to state that it was Kimbimbi District Hospital that gave the names Baby TM to the child. Throughout, the child has been known by this name.

6. Having been satisfied that all the legal requirements for a local adoption under the **Children Act (No. 8 of 2001)** have been met, the following orders shall issue:-

a) the applicants PKK and MMN are hereby allowed to adopt Baby TM.;

- b) Baby TM shall henceforth be known as DKK;
- c) the Baby shall be presumed to be Kenyan since he was found abandoned in Kirinyaga County in Kenya;
- d) EWK and JGK are hereby appointed the legal guardians of the child 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 16<sup>TH</sup> day of MAY 2019.**

**A.O. MUCHELULE**

**JUDGE**