



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 6 OF 2018**

**IN THE MATTER OF BABY W**

**ON APPLICATION FOR AN ADOPTION ORDER**

**AND**

**BKM)**

**PNW).....APPLICANTS**

**J U D G M E N T**

1. By way of Originating Summons, the Applicants herein seek to adopt **Baby W** to be known as **JMK**. The Applicants are residents of **Kitui County Kenya**, both adults below the age of **65 years** who profess the Christian religion and have not been blessed with any children. Their health is stable despite the second Applicant having undergone a surgery procedure following an ectopic pregnancy. Both Applicants who are pastors are financially stable therefore capable of taking care of the child.

2. The child herein was presumably born on the **26<sup>th</sup> December, 2014** at **Thika Township**. His mother requested a security guard, **EA** at **Thika Level 5 Hospital** to hold for her the child so as to ease herself at the washroom but she never returned. The matter was reported to **Thika Police Station** and recorded in **O.B. No. [xxxx]**. Subsequently, the child was committed to **Thomas Barnado House** on **7<sup>th</sup> May, 2015** and on **8<sup>th</sup> May, 2015** the **Thika Children Court** through **Protection and Care Case No. 84/2015** committed him to the home.

3. On the **19<sup>th</sup> April, 2017**, the child was declared free for adoption pursuant to a **Certificate No.[xxx ]**. On the **24<sup>th</sup> May, 2017** he was placed with the Applicants for purposes of fostering. **JWM** who was appointed as a guardian ad litem filed a report confirming the Applicants' ability to raise the child, having bonded with him in an exemplary manner. A report prepared by **Mrs. Jacinta Mwinzi**, the Children Officer **Kitui County** for the Director, Children Services recommends the Applicants being considered as adoptive parents as they have proved capable to adequately provide for the child.

4. From the foregoing, it is apparent that adoption requirements for local adoption pursuant to the **Children Act** have been fulfilled. The Applicants having bonded with the child and are capable of providing for him are qualified to care for him, thus will be in his best interest.

5. Investigations carried out failed to establish the whereabouts of the child's biological mother. Having abandoned him, the consent of his biological parents is dispensed with in accordance with **Section 159(1)** of the **Children Act, 2001**.

6. In the result, the Application is allowed and I proceed to grant orders as follows:

- (i) The Applicants are hereby allowed to adopt **Baby W** who shall henceforth be known as **JMK** whose date of birth shall be **26<sup>th</sup> December, 2014**.
- (ii) **AWM** is hereby appointed as his legal guardian.
- (iii) The Registrar General shall enter this Adoption Order in the Adopted Children Register.
- (iv) The Guardian ad litem is hereby discharged.

7. It is so ordered.

**Dated, Signed and Delivered at Kitui this 16<sup>th</sup> day of July, 2019.**

**L. N. MUTENDE**

**JUDGE**