



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 1 OF 2019**

**IN THE MATTER OF THE ADOPTION ACT**

**AND**

**IN THE MATTER OF THE CHILDREN'S ACT 2001**

**BETWEEN**

**1. JMK**

**2. PWMK.....APPLICANTS**

**-VERSUS-**

**EDK (Minor).....RESPONDENT**

**RULING**

1. The Applicants herein, **JMK** and **PWMK**, filed an Originating Summons dated 09/08/2018 seeking the following orders: -

*i) This Honourable Court be pleased to appoint JMK and PWMK as guardians for and on behalf of the Respondent herein.*

*ii) The Honourable Court be pleased to authorize and/or mandate the Applicants to adopt EDK otherwise hereinafter referred to is the Respondent.*

*iii) The Registrar General be ordered and/or authorized to make appropriate entry in the Adoption Register.*

*iv) Such further and/or other orders be made as the Honourable Court may deem fit and expedient.*

2. The Summons is supported by a joint Affidavit of the Applicants evenly sworn on 09/08/2018 and a Statement evenly dated. The Summons was filed on 14/02/2019 and on 15/02/2019 this Court made several interlocutory orders including the appointment of the Applicants as joint *Guardians Ad Litem* for the child, **EDK** and an order directing the Adoption Society to file an Assessment and Evaluation Report. The Report was eventually filed on 08/07/2019 by the Kenya Children's Home as the Adoption Society.

3. The Court has so far interrogated the parties herein and carefully perused the Report and the pleadings on record. The Report is quite comprehensive and contains the necessary legal requirements for adoption. This Court is satisfied that the Applicants have complied with the pre-requisites to the grant of the prayers sought. Indeed, the Court is *inter alia* satisfied that the Child is free for adoption and that no consent has neither not been obtained nor has been withdrawn. There is also evidence that one **EN**, the First Applicant's sister has agreed to be the legal guardian of the child in the event the Applicants die or become incapacitated before the Child is of full age. The Applicants are within the legal confines on adoption and they have so willingly undertaken to adopt the Child whose name shall change to EDM and I did not find any evidence of collusion or inducement towards the grant of the orders sought. In the circumstances, I find that allowing the Summons shall be in the best interest of the Child. Further, save for the parties' legal obligations I do not see the need to attach any conditions to the adoption herein.

4. Having been aforesaid satisfied, the following orders do hereby issue: -

**(a) An Adoption Order be and is hereby issued authorizing the adoption of EDK by the Applicants herein, JMK and PWMK. Henceforth EDK shall be known as EDM.**

**(b) EN be and is hereby appointed as the Legal Guardian for EDM formerly known as EDK.**

**(c) The Registrar General shall make the necessary entries in the Adopted Children Register.**

**(d) No orders as to costs.**

Orders accordingly.

**DELIVERED, DATED and SIGNED at MIGORI this 12<sup>th</sup> day of July 2019.**

**A. C. MRIMA**

**JUDGE**

**Ruling delivered in open court and in the presence of: -**

**Mr. Abisai** Counsel instructed by the firm of Messrs. Abisai & Company Advocates for the Applicants.

**Evelyne Nyauke** – Court Assistant