



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**ADOPTION CAUSE NUMBER 11 OF 2019**

**IN THE MATTER OF AN APPLICATION FOR**

**ADOPTION OF MNW a.k.a. MWN.....MINOR**

**AND**

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

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

**JUDGMENT**

The application is brought by way of Originating Summons and is dated 27<sup>th</sup> May, 2019. The applicants, **TNN** and **PWN** through their advocates, Muchiri Gatheca & Company Advocates, seek the following orders;

1. Spent
2. Spent
3. Spent
4. **THAT the applicants being the uncle and the aunt to the minor herein be authorized to adopt the minor herein.**
5. **THAT PNK of P.O. Box [xxxx] SUBUKIA be appointed as the legal guardian of the minor herein.**
6. **THAT the applicant be authorized to adopt the said child and the child be henceforth called MWN.**
7. **THAT the Honourable Court be pleased to presume the minor herein as a Kenyan Citizen having been born of Kenyan parents.**
8. **THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a birth certificate in respect thereof.**
9. **THAT the court does issue such other orders as may be necessary in the best interest of the child.**
10. **THAT the costs be in the cause.**

The 1<sup>st</sup> and 2<sup>nd</sup> applicants are husband and wife. They married customarily in 1993 and later solemnized their marriage under **The Marriage Act (Cap. 150)** on 3<sup>rd</sup> December, 1999 at the Superintendent Registrar's Office in Nakuru District within the Rift Valley Province and were issued with a Marriage Certificate serial number [xxxx]. They reside within Nakuru County. **TNN** works as a technician with [particulars withheld] while **PWN** is a farmer and landlady.

**TNN** and **PWN** have been blessed with four biological children namely DM, PW, MN and CW. They intend to adopt **MNW**, a male minor, whose father (DWN) and mother (ENG) died on 22<sup>nd</sup> September, 2009 and 14<sup>th</sup> March, 2012 respectively, their death certificates serial numbers 0718602 and 021333 respectively are available. **MNW** is the applicants' nephew. **TNN** and **PWN** have been taking care of **MNW** since his parents died. **TNN** and **PWN** desire to adopt **MNW** in order to ensure that he gets the best education and a better future since they

have resources they can share with him. **MNW** is aware of this application and is willing to accept **TNN** and **PWN** as his adoptive parents as per his letter dated 20<sup>th</sup> February, 2019. The applicants' four (4) children have all consented to the intended adoption as per their letters dated 24<sup>th</sup> February, 2019.

**MNW** was born on 22<sup>nd</sup> September, 2001 to **DWN** and **ENG**, now deceased. Upon the demise of **MNW**'s parents, the minor was left in need of care and provision which task **TNN** and **PWN** took up and wish to continue doing so.

**TNN** and **PWN** made a formal application for adoption to KKPI Adoption Society in January, 2019. They were taken through the adoption process by the society. They consented to the contents in the Explanatory Memorandum of Adopters by signing the Certificate of Acknowledgement on 21<sup>st</sup> February, 2019. The society carried out a home assessment on 25<sup>th</sup> February, 2019. The applicants also underwent medical evaluation and were found to be in good health. They were recommended to adopt **MNW**.

**MNW** was declared free for adoption on 27<sup>th</sup> February, 2009 and a certificate to declare a child free for adoption serial number 636 was issued by the KKPI Adoption Society.

On 28<sup>th</sup> May, 2019, the Court ordered the Director of Children's Services in the Ministry of Labour and Social Protection to investigate the applicants as to their suitability to adopt **MNW**. One PKG of P.O. Box [xxxx] NAKURU was appointed as *Guardian Ad Litem* of **MNW**. The consent of the biological parents was dispensed with.

The Children's Department conducted a home study on 11<sup>th</sup> June, 2019 and interviewed the applicants on their suitability to adopt **MNW** and Mwambi Mongare the County Children's Coordinator, Nakuru filed a favourable report to court dated 11<sup>th</sup> June, 2019.

Upon reading the above report and satisfying myself that all the legal requirements have been adhered to, this Court is satisfied that the applicants are suitable to adopt and that they are also financially stable and have the means to provide and care for **MNW**. For the above reasons, the Court hereby orders as follows:

- 1. THAT TNN and PWN being the uncle and the aunt to MNW herein be and are authorized to adopt MNW**
- 2. THAT PNK of P.O. Box [xxxx] SUBUKIA be and is hereby appointed as the legal guardian of MNW herein.**
- 3. THAT the applicants be authorized to adopt the MNW and the child be henceforth called MWN.**
- 4. THAT the minor herein is hereby presumed as a Kenyan Citizen having been born of Kenyan parents.**
- 5. THAT the Registrar-General do make the appropriate entries in the Adopted children's register in respect of the minor and further the Registrar of Births and Deaths do issue a birth certificate in respect thereof.**
- 6. THAT the costs be in the cause.**

**Dated and Signed at Nakuru this 11<sup>th</sup> day of July, 2019.**

**A. K. NDUNG'U**

**JUDGE**