



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 7 OF 2019 (OS)**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY RWS aka RW**

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

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

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

**JUDGMENT**

1. The applicant JNM and AK are a Kenyan couple, aged 34 and 32, respectively. The 1<sup>st</sup> applicant is a pastor while the 2<sup>nd</sup> applicant is a home maker. The applicants solemnized their marriage on 6<sup>th</sup> December 2014 at [particulars withheld] Machakos. They have no child of their own. On 31<sup>st</sup> January 2019. They filed the originating summons dated 23<sup>rd</sup> January 2019 seeking to adopt baby RWS aka RW.

2. Baby RWS aka RW was born on 16<sup>th</sup> February 2018 at [particulars withheld] Mission Hospital. The child was given up for adoption by his birth parents on the grounds that he was conceived from an incestuous relationship, which was a taboo in their community. The child was handed to the Kenya Children's Home Adoption Society on the said 16<sup>th</sup> February 2018 who then placed it under the care of Springs of Life Children's Home on 6<sup>th</sup> March 2018. The child was on 6<sup>th</sup> March 2018 committed to the Home pursuant to an order made by the Chief Magistrate's Court at Kakamega in Protection and Care Number 1 of 2018 vide certificate number 1468. She was on 7<sup>th</sup> August 2018 placed with the applicants for bonding. The parents consented to the adoption.

3. On 21<sup>st</sup> February 2019 the court appointed KBK 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, each 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. The court finds that it is in the best interest 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 them. 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 parents of the child have consented to this adoption.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

a) the applicants JNM and AK are hereby allowed to adopt RWS aka RW;

b) Baby RWS aka RW shall henceforth be known as STN;

c) AMM and SMM are hereby appointed to be the child's legal guardians in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;

d) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

e) the guardian *ad litem* is hereby discharged.

**DATED and DELIVERED at NAIROBI this 11<sup>TH</sup> day of JULY 2019.**

**A.O. MUCHELULE**

**JUDGE**