



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**ADOPTION CAUSE NO 33 OF 2017**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BAT a.k.a. BMW.....MINOR**

**AND**

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

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

**JUDGMENT**

The application is brought by way of Originating Summons and is dated 4<sup>th</sup> August, 2017. The applicants, **LWM (MWM)** and **MWK (MWK)** through their advocates, Makori & Rioba Company Advocates, seek the following orders;

- 1. Spent**
- 2. Spent**
- 3. Spent**
- 4. THAT the applicants be authorized to adopt the said child and the child be henceforth called BMW.**
- 5. THAT the child be presumed to be a Kenyan citizen having been found in Kenya at the time of birth.**
- 6. 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.**
- 7. THAT the court does issue such other orders as may be necessary in the best interest of the child.**
- 8. 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 February, 2010 and later solemnized their marriage under the **Marriage Act, 2014** on 27<sup>th</sup> April, 2016 at the Registrar's Office in Nakuru County. They reside within Nyandarua County. **MWM** works as a courier with [Particulars Withheld] and **MWK** works as a Janitor at [Particulars Withheld] Primary School.

The applicants have tried to have a baby several times but have been unable due to medical complications. They desire to adopt baby **BAT a.k.a. BMW**, a male child, in order that they can call him their own. **Baby BAT a.k.a. BMW** has been in their continuous care and control since placement on 29<sup>th</sup> June, 2016.

Baby **BAT a.k.a. BMW** presumably born on the 7<sup>th</sup> day of February, 2015 was found alongside another minor, Baby F, by well wishers namely Teresia Waruira and Elizabeth Wanjiru Waweru. They reported baby **BAT a.k.a. BMW**'s matter to Magumu Police Patrol Base vide occurrence book number 6/7/2/2015. The two were told to go back with the children and the children officer was informed. Baby **BAT a.k.a. BMW** was officially committed to New Life Home Trust on 14<sup>th</sup> April, 2015 vide **Engineer Children's Court Protection and Care Case Number 3 of 2015**. A final police letter dated 28<sup>th</sup> October, 2015 confirmed that their efforts to trace baby **BAT a.k.a. BMW** parents were futile. The New Life Home Trust also confirmed that no parent or relative had turned up to claim baby **BAT a.k.a. BMW** and neither had they received any reports. Baby **BAT a.k.a. BMW** records show that he has undergone immunization and is in good health. His

HIV status is negative.

**MWM** and **MWK** made the adoption application to Change Trust organization. They were taken through the Explanatory Memorandum of Adopters by the Change Trust which they confirmed having understood and appended their signatures on the Certificate of Acknowledgement dated 14<sup>th</sup> March, 2016. Baby **BAT a.k.a. BMW** was declared free for adoption on 4<sup>th</sup> June, 2016 and a certificate to declare a child free for adoption serial number xxxx was issued by Change Trust.

On 19<sup>th</sup> September, 2018, the Court ordered the Director of Children's Services in the Ministry of Labour and Social Protection to investigate the applicants' fitness to adopt baby **BAT a.k.a. BMW**. One SNK of P.O. Box xxx-OLKALOU was appointed as *Guardian Ad Litem* of baby **BAT a.k.a. BMW**. The consent of the biological parents was dispensed with.

The Children's Department conducted a home study and interviewed the applicants on their suitability to adopt baby **BAT a.k.a. BMW** and Hope W. Muriithi the Sub-County Children's Officer, Nyandarua Central filed a favourable report to court received on 10<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 baby **BAT a.k.a. BMW**. For the above reasons, the Court hereby orders as follows:

- 1. THAT the applicants be and are hereby authorized to adopt baby BAT a.k.a. BMW and the child be henceforth called BMW.**
- 2. THAT the child be presumed to be a Kenyan citizen having been found in Kenya at the time of birth.**
- 3. THAT the Registrar-General do make the appropriate entries in the Adopted Children's Register in respect of baby BAT a.k.a. BMW and further the Registrar of Births and Deaths do issue a birth certificate in respect thereof.**
- 4. THAT the costs be in the cause.**

**Dated and Signed at Nakuru this 10<sup>th</sup> day of July, 2019.**

**A. K. NDUNG'U**

**JUDGE**