



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 25 OF 2017**

**IN THE MATTER OF BABY IH a.k.a.**

**IK and BM a.k.a BK.....INFANT**

**AND**

**JKC.....1ST APPLICANT**

**BCC.....2ND APPLICANT**

**JUDGMENT**

The application is brought by way of originating summons and is dated the 18<sup>th</sup> May, 2017. The applicants **JKC** and **BCC** through Makori & Rioba Company Advocates seek the following orders:

- 1. Spent.**
- 2. Spent.**
- 3. Spent.**
- 4. THAT the applicants be authorized to adopt and the children be henceforth called IK and BK respectively.**
- 5. THAT Honourable court be pleased to presume the minors herein as Kenyan Citizens having been found abandoned in Nairobi area at tender ages and no known whereabouts of the parents.**
- 6. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of the minor herein.**
- 7. THAT the court does issue such other orders as may be necessary in the best interest of the child and costs be in the cause.**

The 1<sup>st</sup> and 2<sup>nd</sup> applicants are husband and wife respectively. They married under the Kipsigis Customary Law in 1989 and later on solemnized their marriage under the **Marriage Act (Cap 150)** at District Commissioners office Molo Nakuru County on 16/4/2010 and a certificate of marriage serial number [particulars withheld] was issued. The applicants reside at [particulars withheld] Village, Kuresoi North in Nakuru County. They are both farmers. The applicants have no biological children of their own but they have two fostered children from their extended family who have successfully grown up under their

care. They desire to adopt two male children namely **Baby IH a.k.a. IK (IH a.k.a. IK)** and **BM a.k.a BK (BM a.k.a. BK)** through adoption in order to give needy children a descent home and to enable the minors have a sense of belonging in a family and that they become their heirs.

**Baby IH a.k.a. IK** was abandoned in a street during post-election violence in December, 2007. Due to post election tensions, the matter was not reported to the police immediately. **Baby IH a.k.a. IK** was placed at Mama Ngina's Children's home and further transferred to New Life Home Trust – Kisumu. A late entry was made at Kisumu Police Station vide Occurrence Book number 60/13/07/09. **Baby IH a.k.a. IK** was officially committed to New Life Home on 21<sup>st</sup> January 2009 vide **Winam Children's Court Protection and Care Case Number 14 of 2009**. A letter dated 13<sup>th</sup> January, 2010 from Kisumu Police Station, Child Protection Unit asserted that since then nobody had claimed the child and that efforts to trace the parents or relatives were unsuccessful.

**BM a.k.a. BK** was born on the 19<sup>th</sup> July, 2008 at Pumwani Maternity by one EWM of [particulars withheld] village, Kawangware. The mother offered **BM a.k.a. BK** for adoption since she was only twenty (20) years old and had only finished high school therefore cited her inability to provide for the minor. The father is alleged to have refused to acknowledge paternity. Baby **BM a.k.a. BK** was received at the New Life Home Trust on 13<sup>th</sup> August, 2008. Though the medical notes were not availed, baby **BM a.k.a. BK** looked healthy and weighed 3800g. Baby **BM a.k.a. BK** was officially committed to New Life Home Trust on the 15<sup>th</sup> September, 2008 vide the **Nairobi Children's Court Protection and Care Case Number 241 of 2008**. EWM signed a certificate of acknowledgement and consented to give up Baby **BM a.k.a. BK** for adoption on 3<sup>rd</sup> October, 2018.

The medical reports available show that both minors are in good health and underwent immunization as per the Expanded Immunization Guidelines. They are both HIV negative.

The applicants approached the KKPI adoption Society with an intention of being ratified for placement with a minors with a view to eventually adopting. They were taken through the adoption process and its implications to which they consented. They filed the certificate of acknowledgement on 18<sup>th</sup> August, 2011 to confirm that they have read and understood the memorandum headed "Explanatory Memorandum of Adopters".

On 19<sup>th</sup> September, 2018, the court ordered the County Coordinator Children's Services in the Ministry of Labour and Social Protection to conduct investigations as to the suitability of the applicants to adopt the minors and submit a report on his findings to court. KCF of identity card number [xxxx] and WC of identity card number [xxxx] both of P.O. Box 97, MOLO were appointed as *guardian ad litem* of the minors. The consent of the biological parents was dispensed with.

Baby **IH a.k.a. IK** and baby **BM a.k.a. BK** were declared free for adoption by the KKPI Adoption Society on 16<sup>th</sup> June, 2010 and 2<sup>nd</sup> February, 2010 vide freeing certificate serial numbers 522 and 521 respectively pursuant to **Section 156(1) of the Children's Act 2001 & Adoption Regulations – Kenya Gazette Supplement No. 37**.

As a result of a home visit by the children's office personnel where the applicants were interrogated on their fitness to adopt Baby **IH a.k.a. IK** and baby **BM a.k.a. BK**, One Clement N. Gesore for the County Coordinator Children's Services, Nakuru County filed a favourable report dated 29<sup>th</sup> October, 2018.

This Court has had occasion to consider the application and the relevant reports filed. In the best interest of the child it is hereby ordered;

**1. THAT the applicants be and are hereby authorized to adopt baby IH a.k.a. IK and baby BM a.k.a. BK and the children be henceforth called IK and BK respectively.**

**2. THAT baby IH a.k.a. IK and baby BM a.k.a. BK be and are hereby presumed as Kenyan**

**Citizens.**

**3. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of the minors herein.**

**4. THAT the costs be in the cause.**

**Dated and Signed at Nakuru this 4th day of July, 2019.**

**A. K. NDUNG'U**

**JUDGE**