



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISII**

**ADOPTION CAUSE NO.4 OF 2018**

**IN THE MATTER OF ADOPTION UNDER SECTION 154 OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY IM**

**DMO**

**JKM.....APPLICANTS**

**JUDGMENT**

1. The applicants **DMO** and **JKM**, through their Originating Summons dated 21<sup>st</sup> May 2018 and amended on 8<sup>th</sup> October 2019, seek orders allowing them to adopt baby **IM**. They want the baby's name changed to **AOM** and an Adoption Certificate issued in the names of the adopted infant and be registered in the Register of Adoptions. They also seek orders that **ANO** be appointed to act as the Legal Guardian of the infant.

2. The applicants appeared before this court and gave their sworn statements in support of their application. They stated that they had no child of their own. That they had earlier on adopted **AMM** and wished to adopt baby **IM** as well. The applicants averred that their extended family was supportive of the adoption. They both stated that they were aware of the implications of adoption and knew that the infant would have a right to inherit their property.

3. **M/s Whitney Msigo** from the Kenyans Peace Initiative Adoption Society ("the Society") adopted their report dated 30<sup>th</sup> September 2019 and stated that they had conducted their investigations and recommended the adoption. The Society's report indicates that the infant was estimated to have been born on 31<sup>st</sup> August 2014. He was found abandoned in a bush by Good Samaritans who reported the matter to Serem Police Post vide OB number [....]. The infant was subsequently presented before the Chief Magistrate's Court at Winam and was committed to New Life Home Trust through Protection and Care No. 10 of 2015. He was placed under the care and control of the applicants on 12<sup>th</sup> December 2016 and has been under their care and control since then. The report indicates that the infant has bonded well with the family and states that the adoption will be in his best interest. The Society has declared the child free for adoption under Section 159 (a) (i) of the Children Act through a certificate dated 24<sup>th</sup> November 2016 No. 652.

4. **Mercy Maina**, a Children's Officer also recommended the adoption as per their report. She had prepared a report jointly with the County Children Coordinator Beatrice Obutu which they filed in court on 12<sup>th</sup> July 2019. They gave essential information about the applicants including their educational background, work experience, family ties as well as their financial ability. They observed that the applicants had devoted themselves to giving their time and resources to the infant, and had the support of their family members in adopting the infant.

5. The guardian ad litem **EO** also endorsed the adoption in his oral statement and his affidavits sworn on 9<sup>th</sup> November 2018.

6. The proposed guardian **ANO** testified and stated that he and his wife accepted their responsibility as guardians for the infant.

7. Upon considering the application, I find that it is in the best interest of the infant that he be adopted by the applicants. The adoption agency has indicated that the child was abandoned and remained unclaimed for more than six months before he was committed to New Life Home Trust and later the applicants' care. As the infant still remains unclaimed, I dispense with the consent of his biological parents. The child was declared free for adoption.

8. Accordingly, I allow the application dated 21<sup>st</sup> May 2018 and amended on 8<sup>th</sup> October 2019 in the following terms;

- a. The applicants **DMO** and **JKM** are authorized to adopt baby **IM** who shall be known as **AOM** henceforth.
- b. **EO** is discharged as a guardian *ad litem*;
- c. **ANO** is appointed as legal guardian to the infant;
- d. The Registrar of Births shall make the appropriate entries of **AOM** in the register; and

9. The infant shall be presumed to be a Kenyan citizen. It is so ordered.

**Dated, signed and delivered at Kisii this 1<sup>st</sup> day of November 2019.**

**R.E.OUGO**

**JUDGE**

**In the presence of;**

**Mr. Nyambati for the Applicants**

**Applicants Absent**

**Ms.Rael Court clerk**