



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

ADOPTION CAUSE NUMBER 3 OF 2016

IN THE MATTER OF M a.k.a M K S.....MINOR

AND

K S.....1ST APPLICANT

A C S.....2ND APPLICANT

JUDGMENT

The Application is brought by way of Originating Summons and is dated the 22nd February, 2016. The Applicants through their advocate J. M. Rioba & Rioba Company Advocates seek the following orders:

1. Spent

2. Spent

3. Spent

4. THAT the Applicants be authorized to adopt the minor herein and the child be henceforth called **M K S**.

5. THAT the minor herein be declared a Kenyan Citizen as he was found abandoned within the Republic of Kenya at a tender age and his parents' origin or whereabouts remain unknown.

6. THAT the Registrar-General do make the appropriate entries in the adopted children's register in respect of **(MINOR) M K S**.

The 1st and 2nd Applicants are husband and wife. This is the 2nd for the 1st Applicant Mr. K S and the 1st marriage for the 2nd Applicant A C S. The Applicants got married in October, 1990 under the Kipsigis Customary Laws. Their marriage was later solemnized under the Marriage Act (Cap 150) at the District Commissioner's office, Narok South District where a marriage certificate Serial Number [particulars withheld] was issued. The Applicants reside at [particulars withheld] village. They do dairy and subsistence farming for their daily upkeep. Due to 2nd Applicant's medical condition, she is unable to conceive therefore the Applicants have no biological child of their own. This has led them to desire to adopt baby **M a.k.a. M.K.S**.

Baby **M a.k.a. M.K.S** was presumably born on 15th August, 2011. He was found abandoned on 9th March, 2013 along Mwananchi Road within Syokimau by a Good Samaritan known as M S of telephone number 07xxxxxxx. He rescued the child and took him to Mlolongo Police Station where the matter was reported and recorded vide Occurrence Book Number 13/9/3/2013.

Baby **M. a.k.a. M.K.S** was referred to Lily of the Valley Rescue Centre Mlolongo for a temporary stay pending investigations by the police. Baby **M. a.k.a. M.K.S** was later referred to Thomas Barnado House, a registered adoption society, for safe custody. On 19th April, 2013 baby **M. a.k.a M.K.S** was committed to the same institution vide Protection and Care Case Number 87 of 2013 by the Nairobi Children's Court.

The medical records of the child indicate that the child is in good health and is HIV negative. Baby **M. a.k.a. M.K.S** has received all the immunizations as per the Kenya Expanded Programme on Immunization Guidelines as evidenced from the clinic card attached.

On 17th July, 2017, the Court directed the Director of Children's Services in the Ministry of Gender Children and Social Development to conduct investigations as to the suitability of the Applicants to adopt minor **M. a.k.a. M.K.S.** One **N C A** of ID No. [Particulars withheld] was appointed as *Guardian Ad Litem* of minor **M. a.k.a. M.K.S.** The consent of the biological parents of the **baby M. a.k.a. M.K.S.** was also dispensed with.

By letter dated 5th September, 2013 the Kenya Children's Home Adoption Society asserted that the Administrator, Lily of the Valley Rescue Centre, Mr. Davies Malonza of telephone number 072xxxxxxx was contacted and he confirmed that no one has gone to claim the child. The good samaritan who rescued baby **M. a.k.a. M.K.S.** cannot be reached on phone.

The Case Committee of The Kenya Children's Homes Adoption Society in a meeting held on 9th October, 2013 declared the minor free for adoption and issued a Certificate of Declaring a Child Free for Adoption Serial Number [particulars withheld]. Baby **M. a.k.a. M.K.S.** was also placed with the Applicants since 12th March, 2013.

Donald N Nyamweya Kebabe, the Sub County Children's Officer, Sotik Sub-County conducted investigations by visiting and interrogating the Applicants and filed a favourable report in Court dated 10th October, 2017 on the Applicant's suitability to adopt baby **M. a.k.a. M.K.S.**

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 baby **M. a.k.a. M.K.S.** and are also financially stable and have the means to provide and care for him.

For the above reasons, the Court hereby orders as follows:

1. **THAT** the Applicants be and are hereby authorized to adopt the minor herein and the child be henceforth called **M K S.**
2. **THAT** the minor herein be and is hereby declared a Kenyan Citizen as he was found abandoned within the Republic of Kenya at a tender age and his parents' origin or whereabouts remain unknown.
3. **THAT** the Registrar-General do make the appropriate entries in the adopted children's register in respect of **(MINOR) M K S.**

Dated and Signed at Nakuru this 9th day of May, 2018

A. K. NDUNG'U

JUDGE