



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 156 OF 2015**

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

**AND**

**IN THE MATTER OF ADOPTION OF CHILD M.**

**AND**

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

**A O M.....1<sup>ST</sup> APPLICANT**

**F I M.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants are a Kenyan couple aged 41 and 40, respectively. The first applicant is a lawyer while the second applicant is an accountant. They both work for the [particulars withheld]. They are married but have not been blessed with children. They filed the originating summons dated 25<sup>th</sup> May 2015 and amended on 25<sup>th</sup> August 2017 seeking to be allowed to adopt the female child who is estimated to have been born on 2<sup>nd</sup> November 2013.

2. Child M. was born preterm on 2<sup>nd</sup> November 2013 at Mbagathi District Hospital after which the mother abandoned her at the hospital. The child was referred to Kenyatta National Hospital on 10<sup>th</sup> December 2013 for diagnosis. The matter was reported to Kenyatta Police Post on 21<sup>st</sup> February, 2014 via OB [particulars withheld]. The child was committed to the care of Nest Children's Home on 16<sup>th</sup> April 2014 for care and protection vide Protection and Care Cause No.82 of 2014. The final police letter dated 21<sup>st</sup> August 2014 stated that no claim had been made by the child's biological parents or family. The child was declared free for adoption under **section 156(1) of the Children's Act** by Little Angels Adoption Society on 9<sup>th</sup> March 2018 and was placed under the care of the applicants for mandatory bonding prior to adoption. She has been under the continuous care of the applicants since 24<sup>th</sup> October 2014.

3. The court on 8<sup>th</sup> February 2018 appointed M G M as guardian *ad litem* and ordered that he files a report after carrying out a social inquiry on the applicants. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that 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 her as if she was borne 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. This court dispenses with the consent of the child's biological parents as the child was abandoned.

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 A O M and F I M are hereby allowed to adopt Child M.;

b) child M. shall henceforth be known as Z C M;

c) the child's date of birth shall be 2<sup>nd</sup> November 2013, and shall be presumed Kenyan by birth having been abandoned at Mbagathi District Hospital in Kenya;

d) P O M is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before she is of full age and fully self-reliant;

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

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

**DATED and SIGNED at NAIROBI this 18<sup>TH</sup> day of JULY 2018**

**A.O. MUCHELULE**

**JUDGE**

**DATED and DELIVERED at NAIROBI this 19<sup>TH</sup> day of JULY 2018**

**J.N. ONYIEGO**

**JUDGE**