



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 42 OF 2018**

**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**

**AND**

**IN THE ADOPTION OF J S (MINOR)**

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

**P R S.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Vide exparte application dated 26<sup>th</sup> March 2018 but filed on 27<sup>th</sup> March 2018 pursuant to Sections 176 and 165 of the Children's Act and Section 9 of the Civil Procedure Act Cap 21 Laws of Kenya, the applicants herein sought adoption order issued on 5<sup>th</sup> October 2015 by way of a deed of Adoption by the District Court, Amritsar, Punjab India be adopted and be made an order of this honourable court and that the same be registered and entered in the adoption register.

2. Application is premised on the grounds set out on the face of it and a supporting affidavit jointly sworn by the applicants on 26<sup>th</sup> March 2018. The applicants herein who are Kenyan citizens celebrated their marriage in Kenya on 26<sup>th</sup> July 2008 in accordance with the Hindu Marriage and Divorce Act Cap 157 now repealed. The couple is however not blessed with any biological child hence opted to adopt a baby which they did in India on 5<sup>th</sup> October 2015 at the court of Amritsar (See Marriage certificate marked AKKM-3).

3. That the adoption deed was registered on 5<sup>th</sup> October 2015 and since then, the baby has been living with the applicants in Kenya under a dependency pass. They therefore prayed that the adoption be recognized as well as the adopted baby and the said adoption order be registered and entered in the adopted children's register.

4. I have considered the application herein, materials placed before me interalia adoption deed from an Indian court. Pursuant to Section 176 of the Children's Act, an adoption order made in any part of the common wealth countries to which this section applies, the same shall have effect just like an adoption made under this Act in Kenya. For avoidance of doubt, I would like to reproduce Section 176 which provides as follows:

**Sub Section (1) - where a person has been adopted (whether before or after commencement of this Act) in any place and the adoption is one to which this section applies, then, for the purposes of this Act and all other written laws, the adoption shall have the same effect as an adoption order validly made under this Act, and shall have no other effect.**

**Sub Section 2 – Sub section (1) shall apply to an adoption on any place outside Kenya, if –**

**(a) The adoption order was made by any court of competent jurisdiction in any other country.**

5. I have carefully looked at the adoption deed herein annexed and marked as annexure AKKM4. I have no reason to doubt that the same was issued on 5<sup>th</sup> October 2015. I have no doubt as to the existence of the said deed. In accordance with Section 176 (1) (2) of the Children's Act I am of the opinion that the application is merited and same is allowed with orders that:

**(a) The adoption order issued on 5<sup>th</sup> October 2015 by the District Court of Amritsar, Punjab, India be and is hereby adopted as an order of this court.**

(b) That the adoption deed referred to herein be registered and entered in the register of the adopted children by the Registrar General.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 12<sup>TH</sup> DAY OF JULY, 2018.

**J.N. ONYIEGO (JUDGE)**

In the presence of:

Banji holding brief for Mrs. Rono.....Counsel for the applicant

Edwin.....Court Assistant