



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 4 OF 2018**

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

**AND**

**IN THE MATTER OF ADOPTION OF CHILD C.A.**

**AND**

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

**S M M.....1<sup>ST</sup> APPLICANT**

**C W K.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants are a Kenyan couple aged 38 and 40, respectively. The first applicant is a pilot while the second applicant is a consultant. They are married and have an adopted son aged 4 years. The applicants filed the originating summons on 16<sup>th</sup> January 2018 seeking to be allowed to adopt the female child who was born on 14<sup>th</sup> December 2016.
2. Child C.A. was born on 14<sup>th</sup> December 2016 to Ms. L W N. On 19<sup>th</sup> December 2016 Ms. L W N accompanied by her friend Phidorah Ngele Mwandawa approached Kenyans to Kenyans Peace Initiative (KKPI) adoption office with an intention of offering her child up for adoption. She was taken through the explanatory memorandum for offering the child up for adoption by a social worker. Upon understanding the explanatory memorandum she duly signed the certificate of acknowledgement on 19<sup>th</sup> December 2016. In her letter to the Society dated 13<sup>th</sup> February 2017 she indicated that she was placing the child for adoption due to financial instability and due to the fact that no one in her family was willing to raise the child. On 9<sup>th</sup> March 2017 she together with her friend Phidorah Ngele Mwandawa appeared before a Commissioner for Oaths, Kanyi Ndurumo & Co. Advocates, and gave a final consent.
3. The child was admitted to Angel Centre for the Abandoned Children on 6<sup>th</sup> January 2017 after which she was transferred to New Life Home Trust in Kilimani. On 5<sup>th</sup> July 2017 the child was committed to New Life Home Trust Kilimani for care and protection vide Protection and Care Cause No. 293 of 2017. The child was declared free for adoption under **section 156(1)** of the **Children's Act** by Buckner Kenya Adoption Services on 14<sup>th</sup> July 2017 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 25<sup>th</sup> July 2017.
4. The court on 8<sup>th</sup> February 2018 appointed S N N as guardian *ad litem* and ordered that she 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.
5. 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. The child's biological mother consented to the adoption on 19<sup>th</sup> December 2016, 13<sup>th</sup> February 2017 and 9<sup>th</sup> March 2017.

6. 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 S M M and C W K are hereby allowed to adopt Child C.A.;
- b) child C.A. shall henceforth be known as M N M;
- c) the child's date of birth shall be 14<sup>th</sup> December 2016, and shall be presumed Kenyan by birth having been born at Ponya Medical Hospital in Kenya;
- d) E W K 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 11<sup>th</sup> day of OCTOBER 2018**

**A.O. MUCHELULE**

**JUDGE**