



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 14 OF 2018**

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

**AND**

**IN THE MATTER OF THE ADOPTION OF**

**BABY JL.....MINOR**

**BY**

**JKM.....1<sup>ST</sup> APPLICANT**

**AND**

**PWM.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

The Applicants, JKM and PWM sought by their Originating Summons and Affidavit in support, orders allowing them to adopt Baby JL (hereinafter the child) whose name shall be changed to JMK. The Applicants are husband and wife. They are 49 and 45 years old respectively. They celebrated their marriage on 14<sup>th</sup> December 2002 as per the marriage certificate filed herein marked JPM-10. The 1<sup>st</sup> Applicant is a business person and the 2<sup>nd</sup> Applicant is lecturer. They have not been blessed with children of their own thus they wish to adopt the child.

The child in this matter is presumed to have been born on 5<sup>th</sup> March 2015. According to the initial police letter from Muthangai Police station, the child was found abandoned by Good Samaritan in Kamitha Kawangware. He was then taken to Mwananchi Medical Centre for first aid. The case was reported at Muthangari Police Station and recorded vide OB NO. [Particulars withheld]. The child was then referred to House of Charity children home for care and protection. The child was formally committed to House of Charity children home for care and protection on 23<sup>rd</sup> September 2015 vide Care and Protection Case No. 208 of 2015 by the Nairobi Children's Court in accordance with Section 119 of the Children Act 2001.

The child was then placed in the custody of the Applicants for mandatory bonding prior to adoption on 27<sup>th</sup> July 2016. He has since then been in their continuous custody and care. According to correspondence from relevant police authorities at Muthangari Police Station, no one has come forward to claim the child. Little Angels Network issued a certificate declaring the child free for adoption pursuant to Section 156(1) of the Children Act. The said freeing certificate is serial no. [particulars withheld] and the same is dated 17<sup>th</sup> June 2016. Little Angels filed Report on 5<sup>th</sup> April 2018 and recommended the adoption.

In an application filed on 7<sup>th</sup> February 2018 the Applicants sought orders that CWM be appointed as the child's guardian *ad litem*, and that the Director of Children's Services be ordered to investigate the suitability of the Applicants to adopt the child and submit a report. On 24<sup>th</sup> May 2018 this Court issued an order appointing CWM as the child's guardian *ad litem*, and further directing that she and the Director of Children's Services file their respective reports in Court.

CWM, the guardian *ad litem* filed a report which favoured the proposed adoption of the child by the Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services and filed on 20<sup>th</sup> August 2018. This report was similarly in favor of the proposed adoption. Both reports filed in respect of this proposed adoption have recommended that this Court allows the Applicants to adopt the child.

This is a local adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child. The consents of the biological parents of the child are dispensed with in accordance to Section 159(1) (a) of the Children Act, 2001 since the child was abandoned at birth. This Court is satisfied that the Applicants are qualified and able to take care of the child. The home visit by the guardian *ad litem* confirms that the Applicants are indeed capable of providing for the child. The Report from the Department of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child. They both have no criminal records and are of good health. The child has bonded well with the Applicants according to the Guardian *ad litem*'s report. The child considers the Applicants his parents.

After careful examination of the documents presented, it is the opinion of the court that this Adoption would be in the best interest of the child. Hence, this Court allows the Applicants' application. The Applicants, JKM and PWM, are hereby allowed to adopt Baby J L. Henceforth, the child shall be known as JMK. His date of birth shall be 5<sup>th</sup> March 2015. His place of birth shall be Nairobi County. He is presumed to be a citizen of Kenya by birth. JWG and CWM are hereby appointed as the legal guardians of the child should any eventuality arise. This Court directs the Registrar General to duly enter this order in the Adoption Children Register. The guardian *ad litem* is hereby discharged. It is so ordered.

**DATED, SIGNED AND DELIVERED THIS 12<sup>TH</sup> DAY OF NOVEMBER 2018.**

**M. W. MUIGAI**

**JUDGE- FAMILY DIVISION HIGH COURT**

**IN THE PRESENCE OF;**

**MS. KIGUATHA FOR THE APPLICANTS**

**PATRICK KINUTHIA COURT CLERK.**