



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**ADOPTION CAUSE NO. 4 OF 2014**  
**IN THE MATTER OF THE CHILDREN ACT**  
**AND**  
**IN THE MATTER OF BABY M.K. A MINOR**

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

**E.A.O. ....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants herein **C.O.M** and **E.A.O.** are Kenyan citizens residing in Homa Bay County. They practice Christianity and were in August 2000 married under the Luo Customary Law which marriage was later formalised at the office of the registrar of marriages in Nairobi on 27th January 2012. The 1st applicant has two daughters from a previous marriage to his first wife, who is deceased while the 2nd applicant does not have any biological child of her own and they want to adopt baby M.K. They made a joint adoption application to New Life Home Trust- Kisumu on 23rd January 2012. The applicants were assessed and found to be suitable to adopt a child by the adoption officer and director through a report dated 7th March 2012.

1. The date of birth of baby J.W. who is the subject of these adoption proceedings is unknown because he was found abandoned at a doorstep in Nyalenda Estate in Kisumu City on 4th September 2011 but his date of birth was estimated to be on 15<sup>th</sup> August 2011. The baby was rescued by the occupant of the said house one Mr. C O who reported the matter to Kisumu Police Station where the incident was booked in Occurrence Book entry No. 43/4/9/2011. The baby was on 5th September 2011 placed under the care and custody of New Life Home Trust – Kisumu vide Protection Care Case Number 283/2011 at Senior Resident Magistrates Court at Winam for a period of 3 years with the help of Kisumu District Children’s Office.

3. During the baby’s stay at New at New Life Home Trust , no parent or relative turned up to claim him and neither was any information received from the hospital, children’s department or the police regarding the existence of any claimants of the child.

4. On 30<sup>th</sup> April 2012, the child was discharged from the New Life Home Trust – Kisumu and placed into the care of the applicants for compulsory foster care pending adoption. The child has been in the care of the applicants from then to-date.

5. On 25<sup>rd</sup> April 2012, the Case Committee of Little Angels Network deliberated on the adoption of the child and were satisfied that he was free for adoption and that an adoption would be in his best interest.

**Particulars withheld** dated 25th April 2012 declaring the child free for adoption pursuant to **Section 156 (1) of the Children Act.**

6. This court has perused the said report prepared by the Little Angels Network, the local adoption society, which report favours and recommends the adoption and the applicants suitability to adopt the child. This case refers to a local adoption for which the applicants have been found suitable and they have had the custody of the said child from 30<sup>th</sup> April 2012 to-date during which period they have bonded with the child.

7. During the hearing of this case on 13<sup>th</sup> December 2016, the applicants appeared in court together with the child. I was able to observe the child and the applicants and I noted that they have bonded quite well and that the child is very comfortable in their hands.

8. The 1st applicant informed the court that he is employed as a tour guide while his wife is a teacher employed by the Teachers service Commission (TSC). The 1st applicant stated that they are emotionally and financially capable of taking care of the needs of the child who was already attending school at an Academy in Migori.

9. The 1st applicant nominated his sister W.A. and her husband S.A. to be guardians ad- litem of the child in the event that a misfortune/death befell him and his wife. The applicants stated that they would like to call the child E.I.M. in the event that they are granted the adoption orders.

10. In the premises, this court finds that the applicants have met the criteria set for local adoptions. Consequently, the applicants herein, C.O.M and E.A.O are hereby authorized to adopt baby M.K. who shall henceforth be known as E.I.M. His date of birth shall be 15<sup>th</sup> August, 2011. His place of birth shall be in Kisumu County. He is therefore presumed to have been born in Kenya. W.A. and S.A. the sister and brother in law of the 1st applicant are hereby appointed to be legal guardians of the child in the event of a misfortune such as death befalling the applicants.

11. The registrar General is hereby directed to enter this order in the adoption register. The guardian ad litem is hereby discharged.

12. It is so ordered.

**Dated, signed and delivered in open court this 22<sup>nd</sup> day of February, 2017.**

**HON. W. A. OKWANY**

**JUDGE**

**In the presence of:**

- Mr. Magara for Moracha for the Applicants

- Omwoyo court clerk