

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 45 OF 2016

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF BABY G - MINOR

JUDGMENT

1. **PNM** and **CKK** hereinafter referred as the 1st and 2nd applicants respectively seek to be authorised to adopt **baby G** an infant hereinafter referred to as the child and if authorised the infant to be known as **BLWN**. That the child be presumed to be born in Kenya.

2. The applicants were born on 5th November 1975 and 29th October 1978 respectively. They solemnized their marriage on the 23rd of October 2015 after having been married under customary law. They have not been blessed with any child and hence their desire to adopt. They made an application to Buckner Kenya Adoption society and after assessment the child in this matter was identified by the home. They received the child into their possession on the 24th July 2015 after the child was freed on the 6th March 2015 and she has been in their continuous care since that date. That they now desire to adopt the child. The 1st applicant is a Supervisor of [particulars withheld] in Dubai and the 2nd applicant works at [particulars withheld] as a Travel Advisor. They reside at [particulars withheld] Estate Embakasi and are committed Christians. Their extended family members have accepted to take in the child and treat him as thou she was born of them. They have no criminal records and they believe after living with the child that it is her best interest. That **GK** and **JG** who are the 1st applicant's brother and sister in law have consented to be the legal guardians of the child in the event they die before the child attains the age of majority.

3. The child was presumed to be born on the 14th of April 2014. She was found abandoned in a lodging at [particulars withheld] Wendani shopping centre on the 16th of April 2014. The mother disappeared unnoticed and the child was picked by the caretaker. The matter was reported to the police at Kahawa Sukari police post vide OB No. [particulars withheld]. The police referred the baby to Happy Life Children's Home for care and protection on the 16/4/2014. The child was committed at the said children's home on the 6/8/2014 by the Senior Resident Magistrate's at Nairobi vide protection and care case No. 146/2014. The police confirmed that no one has claimed the child to date. The child stayed in the home until the 27th July 2015 when she was placed under care and control of the applicants. The child was declared free for adoption under Section 159 (a) (i) of the Children Act on the 6th March 2015 by the adoption society.

4. The report from Buckner Kenya adoption services states that the child has enjoyed the parental love, care and good nurturing accorded to her by the applicants and that she has bonded well with the applicants. The applicants have been declared in good health and both have steady income. That they have no criminal record or record of abuse of any kind and both availed their certificates of good conduct. That adoption will be in the best interest of the child.

5. The Director of Children Service filed their report on the 5th October 2016. After assessing the applicants on their education and professional background, views on marriage and divorce, home environment, financial ability, right to inheritance and reasons for adoption, the Director recommends the adoption. The report indicates that this is a local adoption and that the applicants have fulfilled the legal requirements. That they proved capable of taking up parental responsibility over the child during the

statutory placement period prior to adoption during which the child has been under their continuous care and control. That the child stands to gain parents and that she has bonded well with the applicants. The report from the guardian ad litem too is favourable. He states that the child has bonded well with the applicants.

6. The child in the matter was abandoned. Section 159 (a) (i) provides that “***abandonment may be presumed if the child appears to have been abandoned at birth or if the person or institution having care and possession of the child has neither seen nor heard from a parent or guardian of the child for a period of at least six months.***” . The applicants are Kenyans and therefore this is a local adoption. The applicants have provided a home and have cared for the child since the time she was declared free for adoption and placed in their care. No one has come up to claim her. The reports recommend that it is the best interest of the child that the adoption be allowed. Am satisfied that the applicants qualify to adopt as they love, care for the child and have undertaken to provide for her. Baby Gracious stands to gain parents who love her. They have fulfilled all the legal requirements for a local adoption under the Children Act.

7. The Applicants **PNM and CKK** is hereby allowed to adopt **baby G** she shall henceforth be called **BLMN . GK and JG** shall be the legal guardian of the child in the event of death or incapacity of the applicant before the child is of age. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore a Kenyan by birth and is entitled all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem. It is so ordered.

Dated Signed and delivered this **9th** Day of **February** 2017

R.E. OUGO

JUDGE

In the presence of:

.....**For the Applicant**

Ms. Charity

Court Clerk