



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

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

**AND**

**IN THE MATTER OF BABY M A.K.A N N K**

**ADOPTION CAUSE NO. 216 of 2015**

**JUDGMENT**

1. **P K M** and **J S K** hereinafter referred to as the applicants seek to be authorised to adopt baby **M P .a.k.a. N N K** hereinafter referred to as the child and that if the order is granted the said child to be known as **N N K**. That the child to be considered to be a Kenyan citizen, that the consent of the biological parent be dispensed with since the child was abandoned. That **R K K** to be legal guardian of the child and that the Registrar General do make the appropriate entries in the Adopted Children's Register in respect of baby **M P a.k.a. N N K**.

2. The applicants have two biological children and one adopted child. P is a banker and J is a business lady. They have no criminal record and both are in good health, they do not abuse narcotics or alcohol. They have sufficient income and assets to take care of the child. They have had the child in their foster care and custody since the 20<sup>th</sup> of January 2015.

3. **Baby M** was presumably born on the 19<sup>th</sup> of October 2011. She was thrown in a pit latrine at the plot of Mr N by her mother namely M who later ran away in Mpeketoni division Lamu county. The child was rescued by members of the public and taken to Mpeketoni sub-district hospital where she was admitted. The matter was reported at Mpeketoni police station vide OB [particulars withheld] and after discharge from the hospital she was committed to Fatima Children's Care and Nutrition Centre in Ongata Rongai on the 3/11/2011. She was later transferred to Thomas Barnado house on the 11/11/2013 for care and protection vide protection and care no. 43/2014 by the Children's Court. Efforts to trace the child's mother has been unsuccessful from the time she was abandoned. The child was freed by the Kenya Children's Home Adoption Society case committee and a freeing certificate serial no. [particulars withheld] was issued pursuant to section 156 (1) of the Children Act 2001.

4. Kenya Children's home Adoption Society filed its report on the 26/10/2015. They give a detailed background on the applicants as follows: The applicants got married on the 25/5/91 and are blessed with two male children born in 1991 and 1993. Their sons reside with them and during the home visit they expressed their happiness to have another sister in their family. The applicants adopted their first daughter who was born in October 2012. The applicants reside in a house they own, they have undergone pre-adoption counselling. Their family members have given them their full support. According to the agency the applicants are mature, they love each other, have taken good care of their sons as well as their adopted daughter and have satisfied all requirements for adopting the child, the adoption is thus recommended

5. The Director of Children Services filed their report on the 1/7/2016. As per the report the applicants have met the legal adoption requirements for local adoption as per the Children's Act 2001, they also possess social abilities considered important to their taking on parental responsibility and custody of the child as would permanently be conferred by an adoption order. That they have proved during the fostering period that they are capable of taking responsibility successfully over this child alongside their biological children. It is recommended that adoption would be in the child's best interest and that the child will also have the added advantage of gaining siblings born in the family and that the applicants two children have given their consents towards the adoption.

6. The guardian ad litem's report too is favourable. Its reported that the applicants share their love and care equally with all the children big or small and that baby N has received the gift of love from her new family and that there is sincere and general acceptance of the child by the family.

7. I have carefully considered the reports, this is a local adoption and a second one by the applicant. From the reports they love all their children and treat them equally and the applicants are ready for another child. I note that the applicants love this child. M was an abandoned child who deserves a family home and love like any child. **Section 119 (1) (a)** of the Children Act 2001 provides “**that a child is in need of care and protection, one who has no parent or guardian or has been abandoned by his parent or guardian**”. I dispense with the consent of the biological parent as she was not traced nor has she returned to claim the child who was abandoned. Am persuaded that the applicants qualify to adopt this child. They have met the legal requirements and have been favourably assessed. Their biological children too are in favour of the adoption and have given their consents. The child is in a home where she is loved and cared for.

8. I therefore authorise **P K M** and **J S K** the applicants to adopt **baby M P a.k.a. N N** . The child shall be known as **N N K**. She was born in Kenya and is therefore a Kenyan citizen. **R K K** is appointed the legal guardian of the child in the event of death of the applicants or incapacity of the applicants rendering them un-available or incapable of taking care of the child. The Registrar General is hereby ordered to make the appropriate entries in the Adopted Children's Register in respect of baby **M P a.k.a. N N K**. The guardian ad litem is hereby discharged. It is so ordered.

Dated, signed and delivered this **9<sup>th</sup>** day of **February 2017**.

**R.E.OUGO**

**JUDGE**

**In the presence of:**

**Miss Owiti**

**For the Applicants**

**M/s Charity**

**Court/Clerk**