



**REPUBLIC OF KENYA**

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

**FAMILY DIVISION**

**ADOPTION CAUSE NO. 71 OF 2016**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY G M ALIAS A G**

**J K N .....1<sup>ST</sup> APPLICANT**

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

**RULING**

1. The matter before the Court is an Application for authorisation to adopt a child. The Application is brought by originating summons and is supported by the Statement and Affidavit of the Applicants.
2. The Applicants J K N and B W K were aged 47 and 44 at the date of the Application. They are Kenyan Citizens and residents of Nairobi. They are married first by a customary marriage that was solemnized on 20<sup>th</sup> April 2010. The husband is a businessman and the wife a secretary. The records show that they both enjoy good health. Each has exhibited their Police Clearance Certificate. They previously adopted a boy who is now 4 years old.
3. The Applicants wish to adopt a baby girl, G M alias A G. The child was reported to have been abandoned in Pese Forest in Nyahururu. She is estimated to have been born on 28<sup>th</sup>/29<sup>th</sup> December 2013. A good Samaritan reported the matter to Nyahururu Police Station (OB No. [Particulars withheld]). Investigations into finding the biological mother have not been successful and no one has claimed the child. The child was released from hospital on 6<sup>th</sup> February 2014. The Children's Court placed the child in New Life Home Trust, Nyeri on 6<sup>th</sup> February 2014 as being in need of care and protection under Section 119 of the Children's Act. She subsequently moved to the house in Kilimani, Nairobi on 8<sup>th</sup> December 2014. She was placed with the Applicants on 16<sup>th</sup> August 2014 pursuant to case agreement.
4. The child was declared free for adoption by the Little Angels Network on 15<sup>th</sup> August 2014 by Certificate No. [Particulars withheld]. The accompanying report states the Police Department has confirmed that they have exhausted their investigations and have been unable to trace the biological family. The child is in need of alternative family care as opposed to an institution. Adoption it is said, would be in the Child's best interests.
5. During the foster placement the applicants have bonded with the child and they have been providing her with care to the satisfaction of the inquiries made. The Applicants are financially able to support the child.

6. The matter first came before the Court on 15<sup>th</sup> September 2016 when the Learned Judge appointed Charles Muiruri and Guardian Ad Litem (GAL) and also directed the Director of Children's Services and the GAL to file their reports. The Report from GAL is dated 6<sup>th</sup> September 2016 and was filed on 15<sup>th</sup> February 2017. It makes the recommendation that adoption by the Applicants is in the best interests of the child.

7. The report from the Department of Children's Services is dated 24<sup>th</sup> October 2016 and was filed on 5<sup>th</sup> December 2016. It is the recommendation that the child be adopted by the Applicants and be known by the name M A N K.

8. The Court has considered all the reports presented in this case and has formed the view that it is in the best interests of the child to be adopted by the Applicants. The Applicants have already provided a home to the child and she has bonded with them. They shall assume all parental rights and duties of biological parents of the child once adopted, and they shall treat the child as if she was born to them. They have been made aware that once the adoption order is made it will be final and binding during the lifetime of the child. The child has the right to inherit their property. The Applicants shall not be able to give up the child owing to any subsequent unforeseen behavior or other changes in the child.

i. The Court having been satisfied that all the legal requirements for a local adoption under the **Children Act (Cap 141)** have been met, makes the following **orders**:

**a. THAT** the Applicants **J K N** and **B W K** be and are hereby authorized to adopt **BABY G M ALIAS A G**; and the child be called **M N K** henceforth.

**b. J M N** and **J W M** be and are hereby appointed **LEGAL GUARDIANS** of the child in the event a misfortune befalls the Applicants rendering them unavailable or incapable of taking care of the child.

**c. THAT** the **REGISTRAR-GENERAL** be and is hereby ordered to make the appropriate entries in the Adopted Children's Register in respect of **M N K**.

**d. THAT M N K** was born in Kenya and is presumed to be a Kenyan Citizen by birth, and she is entitled to a Kenyan Passport.

Order accordingly,

**FARAH S. M. AMIN**

**JUDGE**

**Delivered and Signed** at **NAIROBI** this **20<sup>th</sup>** day of **March 2017**.

In The Presence of :

Court Clerk: Patrick

Counsel for Applicants: Jacqueline Busima