

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

ADOPTION CASE NO. 15 OF 2016

IN THE MATTER OF THE CHILDREN'S ACT 2001

AND

IN THE MATTER OF BABY E (MINOR)

AND

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY A G W AND G W G
(APPLICANTS)**

JUDGMENT

By way of Originating Summons supported by a Statement and an Affidavit dated 11th February 2016, the Applicants herein A G W and G W G applied to adopt Baby E (herein referred to as the 'Child'). In their Application, the Applicants also prayed for ordered that R G K be appointed as Guardian *ad-litem* and that P N K be appointed as legal guardian to the Child.

The Applicants are a married couple as evidenced by their marriage certificate of Serial No. [Particulars withheld]. They are Citizens of Kenya who have been married for 14 years. They currently reside in Kilimani, Nairobi County within the Republic of Kenya. The Male Applicant is an Engineer and the Female Applicant is an Accountant. They wish to adopt the Child herein because they have not been blessed with children of their own and they thus opted for adoption as an alternative means of growing their family.

The Child in this matter (Baby E) was found abandoned at City Park along Limuru Road and rescued by a Good Samaritan. The case was reported at Parklands Police Station vide O.B/No.26/19/9/2010 and later referred to the Children's office. The Children's office secured a temporal placement at Hope House Babies home where the Child was admitted on 19th September 2010. On 23rd February 2012, the Child was committed to the said Home for care and protection under Committal Order No. 39 of 2011 by the Children's Court in Nairobi. Efforts to trace the whereabouts of the parents and relatives of the Child by the Police have been futile and deponed vide a letter dated 30th May 2011 that no one had come forward to claim the Child. Child Welfare Society of Kenya also asserted that no one had claimed the Child since he was committed to the Home.

The child was later placed with the Applicants on 29th June 2011 pending the adoption order and has since remained under their care and protection. The Child was declared free for adoption on 4th May 2012 by the Child Welfare society of Kenya and a freeing certificate of Serial No. [particulars withheld] was issued pursuant to **section 156(1)** of the **Children's Act, 2001**.

R G K the proposed guardian *ad-litem* gave his consent to act as the guardian *ad-litem* of the Child. This was accompanied by his Affidavit of fitness dated 11th February 2016. He was then appointed as guardian *ad-litem* vide a Court Order 31st October 2016 in which he was directed to file a report. Pursuant to the order, the guardian *ad-litem* filed a Report on 14th February 2016. In the Report, he stated that the Child has bonded well with the parents and his sister A G G who was adopted in 30th April 2010. It was also stated that the Child has been enrolled in a good school and his educational needs have been well provided for by the prospective adoptive parents. It was further stated that the Applicants' families are

supportive and are happy with the Child and the progress that he has made. The Report affirmed that the Applicants are financially and emotionally stable to take care of the Child and thus recommended the Adoption.

Child Welfare Society of Kenya also filed a Home Study Report on 9th June 2016. In the Report, they stated that the Applicants have one Child A G who is adopted and that they wish to adopt a second child so as to expand their family. It was observed that the Child had bonded well with his prospective adoptive parents and his sister. The Report acknowledged that the Applicants have taken good care of their first adopted child by providing her with a good life and quality education. The Report further asserted that the Applicants have no criminal record as evidenced by their certificates of good conduct of Serial Nos. [Particulars withheld] and [particulars withheld] and that they were financially and socially stable to provide for the Child. In recommending the adoption, they stated that the Child is in need of alternative care and thus adoption would be in his best interest.

The Director of Children's Services filed their Report on 14th December 2016 pursuant to the Court Order dated 31st October 2016. They deponed that the Child has been in the Applicants continuous care for the last 5 years and has bonded very well with them, that the Child is assured of growing up in a stable family and that the Applicants are economically capable of taking care of the Child. The Report further averred that the Applicants had been assessed by the Police and found to be of good conduct and that they meet the key social parameters to their taking parental responsibility.

DETERMINATION

From the foregoing, this is a Local Adoption where the Applicants qualify to adopt a Child. The Applicants have been duly assessed as evidenced by the aforementioned Reports and found to be socially, financially and emotionally capable to take care of the Child. Moreover, they have applied for adoption before and were granted the orders. Pursuant to **Section 159(a)** of the **Children's Act 2001**, the consent of the biological parents has been dispensed with because the same cannot be obtained.

The Applicants have met the prerequisites for Adoption under the **Children's Act, 2001**. Having considered the Application, it is clear that the Child had been abandoned and is in need of an alternative family care and thus adoption will be in his best interests.

Accordingly, this Court holds that, the Applicants A G W and G W G are hereby authorized to adopt Baby E. The Child shall be known as J M G and He shall be presumed to be a Kenyan citizen by birth. P N K is hereby appointed to be the legal guardian of the Child should any misfortune befall the Applicants. The Registrar General is hereby ordered to enter this order into the Adoption Register. The guardian *ad-litem* is hereby discharged.

DATED, SIGNED & DELIVERED IN OPEN COURT THIS 3RD DAY OF APRIL 2017.

MARGARET W. MUIGAI

JUDGE