

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

ADOPTION CAUSE NO. 38 OF 2015

IN THE MATTER OF THE CHILDREN ACT 2001

AND

IN THE MATTER OF ADOPTION OF BABY J.A.M(A CHILD)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

M M M1ST APPLICANT

R N N.....2ND APPLICANT

JUDGMENT

1. The applicants are Kenyans aged 44 years old and 36 years old, respectively. The first applicant is a teacher at [particulars withheld] (Engineer Town) while the second applicant is a Credit Officer at [particulars withheld], Naivasha. They are married but have not been blessed with children. They filed the originating summons on 5th February 2015 seeking to be allowed to adopt this male child who is estimated to have been born on 29th May 2013. The child has been under the continuous care of the applicants from 20th December, 2013 to date.

2. The court on 18th January 2017 appointed P M N as guardian *ad litem* and ordered that she files a report after carrying out a social inquiry on the applicants. A similar report was sought from the Director of Children Services. Both reports were duly filed, and each recommended that the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants have bonded well.

3. However, the Originating Summons and the documents on record did not indicate where the child came from. There was no document to show that the child was for instance found abandoned. There was and no indication that any report regarding the child had been made to the police. Further, there was no evidence that police had made any effort to trace the parent(s) of the child. Lastly, there was no indication that the child's parents had consented to its adoption.

4. Until these concerns have been attended to, the application to adopt the child is declined.

DATED and DELIVERED at NAIROBI this 13th day of July, 2017

A.O. MUCHELULE

JUDGE