



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 193 OF 2014**

**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**

**IN THE MATTER OF ADOPTION OF BABY N P ALIAS BABY N W K**

**BY**

**J A K AND C K K (APPLICANTS)**

**JUDGMENT**

1. The Applicants J A K and C K K are in a monogamous marriage which was solemnized at [Particulars Withheld] Catholic Church in Nairobi on 20<sup>th</sup> January, 2004. They have no child of their own. They wish to adopt the child known as Baby N P alias N W K a minor of female sex, through the Originating Summons dated 13<sup>th</sup> August, 2014. From the pleadings the court gathers that J A K is a Foreman with [Particulars Withheld] Company, while C K is a business woman. They reside in Kasarani, Nairobi and are both Christians.
2. Records indicate that the minor in this matter was reportedly abandoned at [Particulars Withheld] on 11<sup>th</sup> March, 2010 immediately after birth. She was rescued by an unnamed Good Samaritan, and was taken to Pumwani Maternity Hospital where she was admitted for several months. The matter was reported at Jogoo Road Police Station on the same day and recorded vide O.B NO. [Particulars Withheld].
3. The child was admitted to Abandoned Baby Centre and later committed on 4<sup>th</sup> October, 2010 vide Committal Warrant No. [Particulars Withheld] by Senior Resident Magistrate, Nairobi for care and protection.
4. The child was declared free for adoption on 28<sup>th</sup> February 2011 by the Kenyan to Kenyan Peace Initiative vide certificate No. [Particulars Withheld]. She was released into the custody of the Applicants for mandatory foster care pending adoption on 18<sup>th</sup> March, 2011, upon their signing a Foster Care Agreement dated the same day. Since then she has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Kenyan to Kenyan Peace Initiative, an adoption society, prepared and filed a report in court.
5. The Adoption Society, guardian ad litem and the Director of Children's Services have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child.
6. The Director of Children's Services also filed a report dated 5<sup>th</sup> November, 2015 recommending the adoption for reasons that the child stands to gain the opportunities provided by becoming the daughter of

the Applicants and growing up in a family setting rather than growing up in an institution. The guardian ad litem, Ms. M K M also filed a report that was favourable and recommended the adoption of the child by the Applicants.

7. The child was in court during the hearing and appeared to have bonded well with the Applicants. She was jovial and related well with the Applicants. Both Applicants' families support the adoption.

8. It is important to note that, the orders sought by the Applicants relate to a child. In law, in any matter concerning a child, the best interests of a child are paramount. **Article 53(2)** of the **Constitution** provides the guiding principle on this question as follows:

**“A child’s best interests are of paramount importance in every matter concerning the child.”**

The other pertinent law is the **Children Act No. 8 of 2001** and in particular **Section 4(3)** thereof.

9. I note that this is a local adoption and the Applicants, in my opinion have fulfilled the requirements for local adoption under the Children Act, 2001. They have proved during the placement period prior to adoption that they are capable of taking on the challenge of raising the child in this matter.

10. Secondly, the Applicants meet the social parameters that are considered relevant to their taking on parental responsibility and custody of the child in this matter, on a permanent basis as would be conferred by the adoption order sought.

11. From the foregoing, this court has formed the opinion that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 13<sup>th</sup> August, 2014 and order as follows:

- i. The Applicants, J A K and C K K are hereby allowed to adopt **Baby N P** who shall henceforth be known as **N W K**.
- ii. Her date of birth shall be presumed to be 11<sup>th</sup> March, 2010. She is presumed to have been born in Kenya in accordance with **Article 14 (3)** of the **Constitution**, and the place of birth shall be Nairobi.
- iii. R O and H M (cousin and brother-in-law to the female Applicant) are hereby appointed legal guardians of the child in the event that the Applicants die or are incapacitated by ill-health.
- iv. The Registrar General is directed to enter this order in the Adoption Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.
- vi. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED and DELIVERED** in open court this **3<sup>rd</sup> day of November 2016**.

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**L. A. ACHODE**

**JUDGE**

**In the presence of .....Advocate for the Applicants**