

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 247 OF 2014

IN THE MATTER OF ADOPTION OF BABY I (MINOR)

BY

A A & N A A (APPLICANTS)

JUDGMENT

1. The applicants A A & N A A have applied for orders to be allowed to adopt baby I. The applicants met in 2004 and got married in 2006 when A came back from Canada. The marriage has no biological child and the parties despite many trials have not been able to get a child of their own.
2. The child in this matter is said to have been born on 9th December 2013 to F B and H S at M. P Shah Hospital. The two parents according to the report approached one S M an officer at an organization and disclosed that they wanted to give up the baby for adoption citing that there were Muslims and under their faith a girl is not supposed to have a child out of wedlock. H on the other hand a Pakistan national who was in Kenya on a work permit had three wives back in Pakistan where he had planned to return. He would thus be unable to take care of the child. F and H signed undated consent document giving up the child for adoption. In the consents F indicates that she was a single Muslim girl and she is not allowed to conceive out of wedlock and furthermore she intended to settle in India and hence unable to care for the child. H on the other hand indicates that he intends to return to Pakistan once his work permit in Kenya expires and so he too cannot take care of the child. H S again signed another affidavit of consent dated 3rd March 2014 consenting to the adoption. F on the other hand signed another consent on 23 January 2014. The baby remained at M.P. Shah Hospital until 18th December 2013 when he was discharged to the Nest Children Home. He was committed to the Nest Children Home by the Children's Court, Nairobi on 10th January 2014 vide protection and care case No. 04 of 2014. The child was placed with the applicants for purposes of this adoption on 7th July 2014.
3. The child was declared free for adoption by Little Angels network on the 30th April 2014 and issued with a certificate declaring a child free for adoption, certificate number *[particulars withheld]*.
4. The report from the adoption agency was filed on the 30th October 2014 while the Director of Children's Services filed its report on 1st April 2015. The guardian ad litem, M G also filed her report on 30th October 2015. Both reports are favourable and recommended the adoption of the child by the applicants. 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 to provide for the up keep of the child.
5. After a careful assessment of the reports filed herein, this court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants as the biological parents who were not married and merely had a relationship gave up the child for adoption after considering their status and religion. The two have since left the country and cannot be traced; efforts to have them attend court were futile. This is the special circumstance in this adoption matter. The application is therefore allowed. The Applicants A S A H & N A A A A are hereby allowed to adopt baby I. The child shall henceforth be known as A A A and Dr. J H and Dr. Mrs H H (applicants' close friends) shall be the legal Guardians of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. The child was

born in Kenya and is therefore a Kenyan by birth and is entitled to all the rights that accrue to Kenyan Citizens under the Kenya Constitution 2010 and the Kenya citizenship and immigration Act. I hereby discharge the Guardian ad litem.

It is so ordered.

Dated signed and delivered this *3rd* Day of *July* 2015.

R. E. OUGO

JUDGE

In the Presence of:

.....**For the Applicants**

Ms. Charity

Court clerk