

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 143 OF 2015

IN THE MATTER OF ADOPTION OF BABY N M N

And

IN THE MATTER OF THE APPLICATION FOR ADOPTION

BY

T M J1ST APPLICANT

AND

F J.....2ND APPLICANT

JUDGMENT

1. The applicants **T M J** and **F J** seek to be authorised to adopt baby **N M** and upon making the adoption order the child be called **R J A J** and that **S J B** and **A S T B J** be appointed the legal Guardians of the child in the event of death or incapacity of the applicants before she is of full age.
2. The applicants are citizens of Sweden and Germany respectively, born on 24th February 1971 and 18th November 1972 respectively. The applicants got married on 31st July 2004. The 1st applicant is a senior researcher with the *[particulars withheld]* while the 2nd applicant is a student of *[particulars withheld]*. The applicants were investigated by Social Welfare Committee of Uppsala in Sweden and found as fit adoptive parents as per the home study report dated 26th April 2013. The Kenya National Adoption Committee in their sitting on 16th September 2014 approved that the applicants proceed with the adoption and issued certificate of approval for an individual foreign adoption application serial number 000549 and dated 21st October 2014. The Swedish government has undertaken to recognise the adoption order from this court and the child will acquire Swedish citizenship once the adoption order is granted. As per the investigation report by the Swedish police Board dated 9th October 2013 none of the applicants has been convicted of a criminal offence referred to in the third Schedule of the Children’s Act 2001. The applicants were found to be financially stable to cater to the child’s medical care, education and general upkeep. The applicants have also taken up a compulsory, comprehensive pre-adoption course as required by the social welfare Uppsal Sweden. Adoption Centrum has undertaken to follow up on the adoption upon the parties return to Sweden and send progress reports to Kenya.
3. The child was born at home and the mother was transferred to Thika Level 5 Hospital where the mother later abandoned the child at the new born unit of the hospital. The matter was reported to Thika Police Station as OB number 31/25/07/2013. Thika District Children’s office was informed of the matter and sought a placement for her at Mogra Rescue Centre and she was later committed to Mogra Soul Winner Rescue Centre on 8th August 2013 vide children’s case no. 234/14. Thika Police Station confirmed that no person has come forward to claim the child. The child was declared free for adoption by Little Angels Network on 10th December 2014 and issued a certificate no. 0001586. The child was placed with the applicants for bonding on 6th March 2015.
4. The guardian ad litem filed her report on 20th July 2015 and the same is favourable and recommends the adoption. The said report reveals that due to biological reasons the parties have been unable to have a child of their own. The applicants’ families are supportive of their adoption and the child appears to be bonding well with the applicants.

5. There is no report from the Director of Children's Services who as per the applicants' application dated 13th July 2015 refused to accept service of this court order directing that the Director of Children's Services assess the applicants. This the applicants argued has caused them stress and delay. Via their application dated 13th July 2015 the applicants sought to dispense with the assessment by the Director of Children Services, Ministry of Labour, Social Security to investigate the applicants' fitness to adopt be dispense. On 9th October 2015 this court allowed the said application and dispensed with the Director's report.
6. Having read the reports filed herein I find that it is in the interest of the child she be adopted by the applicants. The court allows the applicants application. The Applicants **T M J** and **F Jn** are hereby allowed to adopt baby **N M** and upon making the adoption order the child be called **R J A J. S J B** and **A S T B J** 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 **6th** Day of **November** 2015.

R. E. OUGO

JUDGE

In the Presence of:

.....**Applicants**

.....**Court clerk**