



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 129 OF 2013**

**IN THE MATTER OF THE CHILDREN ACT, 2001**

**AND**

**IN THE MATTER OF BABY A K**

**H M M.....1<sup>ST</sup> APPLICANT**

**R M M.....2<sup>ND</sup> APPLICANT**

**J U D G M E N T**

The applicants, H M M and R M M, are husband and wife. They were married on 7<sup>th</sup> August 1982. The 1<sup>st</sup> applicant is a Technician at *[particulars withheld]* while the 2<sup>nd</sup> applicant is a teacher. The applicants have not been blessed with any children of their own due to medical reasons. They have already adopted another child who was born on 21<sup>st</sup> June 2004 through this court. They wish to adopt another child. They wish to adopt the present child to enable their adopted son to have a sister. They have applied to this court to be allowed to adopt baby A K (the child). The child was presumed to have been born on 7<sup>th</sup> March 2011. The child was on the same 7<sup>th</sup> March 2011 found abandoned along Langata road near Dam Estate, Nairobi. A report was made on the same day to Langata Police Station. The child was placed with Thomas Barnardo House for care and protection. She was committed by the Nairobi Children's Court to the custody of the said Children's Home on 15<sup>th</sup> June 2011 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement signed on 7<sup>th</sup> October 2011. They took custody of the child on the same day. Since then, the child has been in the custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Homes, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 28<sup>th</sup> September 2011. The Director of Children's Services prepared a report which is on record. The guardian ad litem, E M K, prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed that the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants her parents.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants' application for adoption. The applicants, H M M and R M M, are hereby allowed to adopt Baby A K. Henceforth, the child shall be known as E M M. Her date of birth shall be 7<sup>th</sup> March 2011. Her place of birth shall be Nairobi, Kenya. J B M M and C M B, family friends of the applicants, shall be the legal guardians of the child should such eventuality arise. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It

is so ordered.

**DATED AT NAIROBI THIS 7<sup>TH</sup> DAY OF FEBRUARY, 2014**

**L. KIMARU**

**JUDGE**