



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO.103 OF 2013**

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

**AND**

**IN THE MATTER OF BABY M.W *alias* J.M - MINOR**

**D.N.N.....1<sup>ST</sup> APPLICANT**

**E.N.N.....2<sup>ND</sup> APPLICANT**

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

The applicants, D.N.N and E.N.N, are husband and wife. They were married under customary law in 1983 but formalized their marriage on 4<sup>th</sup> June 1988. The 1<sup>st</sup> applicant is a [*particulars withheld*] while the 2<sup>nd</sup> applicant is a [*particulars withheld*]. The Applicants have been blessed with three (3) children. All the children are now adults. The three children have given their consent to the applicants to adopt the child. However, they have applied to this court to be allowed to adopt baby M.W *alias* J.M (the child). The child was presumed to have been born on 27<sup>th</sup> May 2007. She was found abandoned at KITI area within Nakuru. A report was made on the same day to Nakuru (Central) Police Station. The Nakuru Children's Office was informed of the incident and managed to secure home placement for the child at St. Ann Children's Home where the child was taken for care and protection. The Nakuru Children's Court committed the custody and care of the child to the said children's home on 12<sup>th</sup> August 2007 pending formal adoption proceedings. The applicants were given custody of the child for mandatory foster care on 30<sup>th</sup> April 2011 pending adoption pursuant to a foster care agreement signed on the same day. They took custody of the child on the same date. Since then the child has been under the custody of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 4<sup>th</sup> May 2011. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, F.D.A.O, 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, D.N.N and E.N.N, are hereby allowed to adopt Baby M.W *alias* J.M. Henceforth the child shall be known as N.M.W.N. Her date of birth shall be 27<sup>th</sup> May 2007. Her Place of birth shall be Nakuru, Kenya. M.N.K, the sister to the 2<sup>nd</sup>

applicant shall be the legal guardian of the applicant 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 10<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**