

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 244 OF 2011

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J

J M M.....1ST APPLICANT

P W M.....2ND APPLICANT

J U D G M E N T

The applicants, J M M and P W M, are husband and wife. They were married under **Customary Law** in August 1997. They solemnized their marriage on 6th November 1999 when they were married at the Catholic Church in *[particulars withheld]*. The 1st Applicant is a teacher while the 2nd Applicant is a farmer. The Applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby J (the child). The child was presumed to have been born on 22nd November 2009. He was found abandoned on 27th March 2010 at *[particulars withheld]* along Haile Selasie Avenue in Nairobi. A report was made on the same day to Kamukunji Police Station. The child was placed with Missionaries of Charity- Huruma on the same day for care and protection. He was committed by the Nairobi Children's Court to the custody of the said Children's Home on 23rd December 2010 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 15th December 2010. 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, KKPI, an adoption society prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 23rd December 2010. The Director of Children's Services prepared a report which is on record. The guardian ad litem, M W M, 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 soon after 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 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, J M M and P W M, are hereby allowed to adopt Baby J. Henceforth, the child shall be known as A M M M. Her date of birth shall be 22nd November 2009. Her place of birth shall be Nairobi, Kenya. A N G, a sister of the 2nd applicant, shall be the legal guardian 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 10TH DAY OF MARCH, 2014

L. KIMARU

JUDGE