



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 242 OF 2013**

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

**AND**

**IN THE MATTER OF BABY M - MINOR**

**B W B.....1<sup>ST</sup> APPLICANT**

**N M B.....2<sup>ND</sup> APPLICANT**

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

The applicants, B W B and N W B, are husband and wife. They were married on 27<sup>th</sup> December 2003 in Michigan, United States of America. The applicants are United States of America citizens. The 1<sup>st</sup> Applicant is an Epidemiologist employed with the *[particulars withheld]* while the 2<sup>nd</sup> applicant is a stay at home mother. The Applicants have been blessed with two biological children born in 2006 and 2009 respectively. They have been residents in Kenya since August 2009. They have therefore made this application as foreign residents in Kenya. This is under the **Rule** that allows foreigners who have lived in Kenya for a period of more than three (3) years to adopt a child as such. The applicants wish to adopt a child. Baby Mi (the child) was born on 28<sup>th</sup> April 2013 at Pumwani Maternity Hospital in Nairobi. He is the son of J N. The child's biological father is unknown. The biological mother gave the child for adoption at birth through Kenya Children's Home Adoption Society on 2<sup>nd</sup> May 2013. She cited her single status and inability to raise the child as the reason she was offering the child for adoption. The child was handed over to Thomas Barnado House for care and protection. He was committed by the Nairobi Children's Court to the custody of the said Children's Home on 19<sup>th</sup> June 2013 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 30<sup>th</sup> July 2013. They took custody of the child on the same day. Since then, the child has been in the continuous custody and care of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Kenya Children's Home, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 18<sup>th</sup> July 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, Dr. K G, 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 an adoption by foreign residents in Kenya. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological mother of the child was obtained. 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 his parents. The United States citizenship and Immigration Services have given an assurance that the child will be granted citizenship of the applicants.

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, B W B and N M B, are hereby allowed to adopt Baby M. Henceforth, the child shall be known as M K B. His date of birth shall

be 28<sup>th</sup> April 2013. His place of birth shall be Pumwani Maternity Hospital in Nairobi, Kenya. J R W and B R W, sister and brother in -law of the 2<sup>nd</sup> applicant, 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 10<sup>TH</sup> DAY OF MARCH, 2014**

**L. KIMARU**

**JUDGE**