



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MILIMANI**  
**ADOPTION CAUSE NO. 221 OF 2012 (OS)**  
**AND**  
**IN THE MATTER OF THE CHILDREN'S ACT**  
**(NO. 8 OF 2001)**  
**AND**  
**IN THE MATTER OF BABY J. M.**  
**JUDGEMENT**

1. The applicants, F. W. J. and S. N. K., are Kenyan citizens. They are a married couple. They seek to adopt Baby J. M. Their originating summons is dated 15<sup>th</sup> October 2012.
2. The child in question was born on 27<sup>th</sup> May 2005 and abandoned immediately thereafter by unknown persons at the Githurai bridge in Nairobi. The matter was reported at the Kasarani Police Station and the child taken to the Missionaries of Charity Huruma, where he was later to be committed by the children's court. No one came forth to claim him, and the police have been unable to trace his relatives. He was placed with the applicants on 12<sup>th</sup> June 2008.
3. The child was freed for adoption by the Kenya Children's Homes adoption society by their certificate of 12<sup>th</sup> March 2008.
4. To facilitate this adoption, the applicants have been assessed by the Kenya Children's Homes, the Director of Children Services and the guardian *ad litem*, J W N. The three have compiled and filed their reports in court. That of the Kenya Children's Homes adoption society is dated 2<sup>nd</sup> December 2013, while that of the Director of Children Services is dated 18<sup>th</sup> September 2013. The report of the guardian *ad litem* is dated 15<sup>th</sup> November 2013.
5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child himself appears to have bonded well with them and he considers them to be his parents.
6. In the opinion of this court it would be in the best interests of the child that he is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them. The applicants have been made aware that once the

adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

7. I am satisfied that all the legal requirements for a local adoption have largely been met, but I do note that the applicants have not proposed a person or persons for appointment as legal guardians of the child. Appointment of legal guardians in adoption causes is critical given that the adopted child is for practical purposes a stranger in the home where they are adopted, and need protection following the death or infirmity of their adoptive parents, for there is real probability that the relatives of the adoptive parents may not be inclined to step and care for the child in the circumstances..
8. The applicants are granted thirty days to identify and propose a person or persons for appointment by the court as legal guardians of the child in the vent of misfortune befalling them. The matter shall be mentioned thereafter for further orders.

**DATED, SIGNED and DELIVERED at NAIROBI this 6<sup>th</sup> DAY OF June 2014.**

**W. MUSYOKA**

**JUDGE**