



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MILIMANI**  
**ADOPTION CAUSE NO. 243 OF 2013 (OS)**  
**AND**  
**IN THE MATTER OF THE CHILDREN'S ACT**  
**(NO. 8 OF 2001)**  
**AND**  
**IN THE MATTER OF BABY J also known as BABY M A N**

**JUDGEMENT**

1. J A K M is a single applicant, who is a Kenyan citizen. She seeks to adopt a Kenyan male child, known for the purposes of these proceedings as Baby J Her Originating Summons is dated 14<sup>th</sup> October 2013.
2. Baby J was born to M N and G M on 30<sup>th</sup> March 2012 at the Ruiru District Hospital. He was abandoned at the hospital by his birth mother. The incident was reported at the Ruiru Police Station. The child was taken to the Hope House children's home for care and protection, and he was later committed to the home by the children's court. He was placed with the applicant on 20<sup>th</sup> March 2013.
3. This adoption is being arranged by the Child Welfare Society of Kenya, who freed the child for adoption vide their certificate dated 8<sup>th</sup> November 2013.
4. To facilitate this adoption, the applicant has been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, F D A O The three have compiled and filed their reports in court. The reports by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem* is are dated 8<sup>th</sup> November 2013, 13<sup>th</sup> March 2014 and 22<sup>nd</sup> November 2013, respectively.
5. All these reports are favourable and recommend the proposed adoption. The applicant has filed documents that demonstrate that she has the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with her and she considers her to be her parent.
6. This is a case of a female applicant seeking to adopt a male child. I have found that special circumstances do exist which favour the adoption that notwithstanding. In the first place, the applicant is a married woman living with her husband. The husband is not a co-applicant because he is a foreigner who cannot possibly adopt through a local application. I have noted that he is

supportive of the current process and has undertaken to apply to adopt the child in future once his Kenyan citizenship is regularised.

7. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicant. The applicant 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 applicant shall assume all parental rights and duties of the biological parents in respect of the adopted child; she shall treat the adopted child as if she was born to her. The applicant has 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 her property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.
8. I am satisfied that all the legal requirements for a local adoption have been met, and I will therefore make the following final orders:-
  - a. That the consent of the biological parents of the child is hereby dispensed with and the applicant, J A K M, is hereby allowed to adopt the child, Baby J. also known as M N.;
  - b. That the said child shall hereafter be known as M A M S;
  - c. That A M is hereby appointed the legal guardian of the child in the event of the untoward happening to the applicant;
  - d. That the Registrar-General is directed to enter this adoption order in the adoption register;
  - e. That the guardian *ad litem* is hereby discharged.; and
  - f. That the child shall be presumed to have been born in Kenya and she is therefore Kenyan by birth as she was found abandoned within the Kenyan boundaries. She is entitled to all the rights that accrue to citizens under the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act.

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

**W. MUSYOKA**

**JUDGE**

**In the presence of Mr. Kamechu advocate for the applicants.**