

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO.124 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, P. M. M. and S. M. M. M., are Kenyan citizens. They are a married couple. They seek to adopt Baby J. M. Their originating summons is added 31st May 2012.
2. The child in question was found abandoned on 5th March 2009 at a dumpsite at Athi River, Machakos County. The matter was reported at the Athi River Police Station, who referred the child to the Mama Ngina Children's Home for care and protection, from where she was placed with the applicants on 10th February 2010. The biological parents of the child were not traced, and nobody came forward to claim her. It is estimated that he was born on 1st December 2008.
3. The child was freed for adoption by the Child Welfare Society of Kenya by their certificate of 17th August 2011.
4. To facilitate this adoption, the applicants have been assessed by the Child Welfare Society of Kenya, the Director of Children Services and the guardian *ad litem*, P M M. The three have compiled and filed their reports in court. That of the Child Welfare Society of Kenya is 17th August 2011, while that of the Director of Children Services is dated 6th June 2013. That of the guardian *ad litem* is dated 11th March 2014.
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 she 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 been substantially met, save that the applicants have not identified a legal guardian for appointment by the court. Since the subject child is not related to them at all, it is imperative that a legal guardian or guardians be

appointed to care and protect the child in the event of a misfortune befalling them.

8. The applicants are granted thirty (30) days to do so. The matter shall be mentioned thereafter for further orders.

DATED, SIGNED and DELIVERED at NAIROBI this 6th DAY OF June 2014.

W. MUSYOKA

JUDGE