



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO. 178 OF 2014**

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

**AND**

**IN THE MATTER OF BABY E L - MINOR**

**I D.....1<sup>ST</sup> APPLICANT**

**C P.....2<sup>ND</sup> APPLICANT**

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

The applicants, I D and C P, are husband and wife. They were married on 5<sup>th</sup> December 2010 in Kenya. The 1<sup>st</sup> applicant is a British national while the 2<sup>nd</sup> applicant is an Italian national. The 1<sup>st</sup> applicant is a technical advisor employed by the *[particulars withheld]* whereas the 2<sup>nd</sup> applicant is a medical doctor employed by the *[particulars withheld]*. The applicants have not been blessed with any biological children due to medical reasons. They have been residents in Kenya since October 2008. The applicants wish to adopt a child. They have therefore made this application as foreign residents in Kenya. This is under the Rule that allows foreigners who have been in Kenya for a period of more than three (3) years to adopt a child as such. Baby E L (the child) was found abandoned within Kangemi in Nairobi. He was presumed to have been born on 29<sup>th</sup> April 2013. A report of the abandonment was made to Kabete Police Station on 30<sup>th</sup> April 2013. The child was placed with Hope House Babies Home for care and protection. He was committed by the Nairobi Children’s Court to the custody of the said Children’s Home on 5<sup>th</sup> March 2014 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 24<sup>th</sup> March 2014. 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, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 26<sup>th</sup> March 2014. The Director of Children’s Services prepared a report which is on record. The guardian ad litem, M K K, 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 parents of the child was dispensed with since the child was abandoned at 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 and emotional capability to provide for the upkeep and education of the child. This court observed 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.

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, I D and C P, are hereby allowed to adopt Baby E L. Henceforth, the child shall be known as E M P D. His date of birth shall be 29<sup>th</sup> April 2013. His place of birth shall be Kangemi, Nairobi- Kenya. He is presumed to be a Kenyan

citizen by birth. L P and D A R, brother and sister-in-law respectively to 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 7TH DAY OF NOVEMBER , 2014**

**M. MUIGAI**

**JUDGE**