



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE NO.196 OF 2012**

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

**AND**

**IN THE MATTER OF BABY J (MINOR)**

**L M K.....1<sup>ST</sup> APPLICANT**

**E M M.....2<sup>ND</sup> APPLICANT**

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

The applicants, L M K and E M M, are husband and wife. They were married on 27<sup>th</sup> May 2005 under the **African Christian Marriage Act**. The 1<sup>st</sup> applicant works with the *[particulars withheld]* in Kenya while the 2<sup>nd</sup> applicant is a business lady. The Applicants have not been blessed with any biological children. They have already been granted an adoption order to adopt a daughter who is now aged nine (9) years. They wish to adopt another child. In that regard, they have applied to this court to be allowed to adopt baby J (the child). The child was born on 22<sup>nd</sup> February 2010. She was found abandoned at Ruiru. This was soon after her birth. A report was made to Kamukunji Police Station. The child was taken to Missionaries of Charity Home for care and protection. The Nairobi Children’s Court committed the custody and care of the child to the said children’s home on 23<sup>rd</sup> December 2010 pending these formal adoption proceedings. The applicants were given custody of the child for mandatory foster care on 17<sup>th</sup> December 2010 pending adoption pursuant to a foster care agreement signed on the same day.

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 15<sup>th</sup> December 2010. The Director of Children’s Services also prepared a report which is on record. The guardian ad litem, J W I, 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 a local adoption. It was evident that the applicants have fulfilled all the legal requirements relating 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 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 her parents. The applicants have proved that they have capacity to take care of the child by the fact that the daughter they earlier adopted is thriving under their care.

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, L M K and E M M, are hereby allowed to adopt Baby J. Henceforth the child shall be known as S R W. B T, the brother to the 2<sup>nd</sup> applicant shall be the legal guardian 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 8<sup>TH</sup> DAY OF OCTOBER, 2013**

**L. KIMARU**

**JUDGE**