



**REPUBLIC OF KENYA**

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

**ADOPTION CAUSE 10 OF 2011**

**IN THE MATTER OF THE CHILDREN'S ACT (ACT NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF BABY DLK**

**JUDGEMENT**

1. Before me is an application for an adoption order, dated 17<sup>th</sup> January 2012 brought, inter alia, under **Sections 157 & 160 of the Children's Act, (No. 8 of 2001) and Sections 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya and enabling provisions of Law)**.
2. The applicants herein, **NKN** (the 1<sup>st</sup> applicant) and **EWM** (the 2<sup>nd</sup> applicant), a married couple of **P.O. [particulars withheld]** have moved the court, praying that they be authorized to adopt and rename a baby boy, presently identified and known as **Baby D** who, for the purposes of this judgement shall, where necessary, be referred to either "**the minor**", "**the infant**" or "**the child**". The applicants propose that he be known as **LN** upon adoption.
3. Both applicants are Kenyan citizens. The 1<sup>st</sup> applicant is 38 years old while the 2<sup>nd</sup> applicant is 30 years old. The couple started cohabiting in 2007 and later formalized their union on 5<sup>th</sup> July 2011 at the Registrar's office. They have no children of the marriage. Both applicants are self employed and run a hardware business. They also own rental houses in addition to their matrimonial home. They have filed the requisite statement and affidavit in support of the application bearing all the supporting documents as necessary, including bank statements a logbook of their motor vehicle and a Land Rates Certificate.
4. On 3<sup>rd</sup> February, 2012 on the applicants' application, **SSK of P.O. Box [particulars withheld] Nairobi** was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a favourable report dated 5<sup>th</sup> March, 2012 primarily stating that **Baby D** has bonded well with adoptive parents, is happily settled in their care and is well taken care of. She also vouches for the adoptive parents' suitability to bring up the child in a healthy, happy and loving environment and to provide for him in a manner that will ensure that he gets the best in life. The Director of Children's Services on the other hand has reported that the applicants are able to provide for the child in a manner that will guarantee not only his day to day needs and education but also guarantee him an inheritance. Both the guardian ad litem and the Director of Children's Services highly recommend, therefore, that the applicants be granted the authority to adopt **Baby D** and to rename him **LN**.
5. At the hearing of the application, it was proved, through the documentation filed in support, that "**Baby D**" was born on 15<sup>th</sup> April, 2010. He was abandoned by unknown persons in a thicket near Githurai Kimbo estate. He was rescued by a good Samaritan called M.A.O. The matter was reported to Githurai Kimbo Police Station vide **[particulars withheld]**. He was placed for care and protection with Missionaries of Charity Children's Home Huruma where he was committed by the Resident Magistrate Nairobi Children's Court vide a committal order dated 27<sup>th</sup> May, 2011.
6. Efforts by the police to trace the biological parents proved fruitless. This is confirmed by the letter from Githurai Kimbo Police Station dated 27<sup>th</sup> April 2011. The child has been under the continuous care and custody of the applicants since 9<sup>th</sup> August 2011 when they entered into a foster care agreement with the Missionaries of Charity-Huruma.

7. On 29<sup>th</sup> June, 2011 **Baby D** was certified free for adoption under a Certificate of Declaration to that effect issued by the Kenyans to Kenyans Peace Initiative Adoption Society. Relevant studies and investigations have been carried out in regard to applicants' suitability to adopt the child and requisite reports duly filed. The Director of Children's Services has reported that the applicants have proved that they are both financially and socially capable of permanently fulfilling parental responsibilities over the child.

8. In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children Services, and thoroughly examined all the documentation filed in support thereof. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that the applicants do possess the requisite legal capacity to adopt the child, and that they do understand the entire adoption process, and its future implications for themselves as a family and in particular, the need to provide the best for the adopted child all his life. I find them to be stable, medically fit and financially able to adopt **Baby D**. Being motivated by their desire to have a family and to provide for a needy child, they have undertaken and bound themselves to bring up the minor as one of their own, in a healthy, happy and secure environment.

9. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby D**. Accordingly, the Originating Summons dated 17<sup>th</sup> January 2012 is hereby allowed and orders granted in terms of prayer 3, 4, and 5 thereof.

**DATED, SIGNED and DELIVERED at NAIROBI this 13<sup>th</sup> DAY OF July, 2012.**

**M.G. MUGO**

**JUDGE**

**In the presence of :**

for the applicant