



## IN THE MATTER OF BABY J.I ALIAS E.M

### JUDGEMENT

1. Before me is an application for an adoption order, dated 8<sup>th</sup> March, 2012 brought under **Sections 154, 156,(1) 157(1), 158(1) (a) 4, 159(1) (a) (i), (4), 160(1), (2), (4), 161, 163(1), (c)(f), 164(1), 169(2) and 170 (1), (2) (a), (5) of the Children's Act, 2001 (Act No.8 of 2001) and Section 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya and all enabling provisions of law.)**
2. The applicants herein **J.M.I** (1<sup>st</sup> applicant) and **M.A.I** (the 2<sup>nd</sup> applicant), a married couple, of **FINLAND** but residents of Kenya since 01.10.2008, have moved the court, praying that they be authorized to adopt and rename a baby boy presently identified and known as **BABYJ.I** who, for the purposes of this judgement shall, where necessary, be referred to either as **BabyJ**, "*the minor*", "*the infant*" or "*the child*". Both applicants are Finnish Nationals and were in court for the hearing of this application.
3. The 1<sup>st</sup> applicant is 37 and the 2<sup>nd</sup> applicant is 36years old. The applicants were married on 5<sup>th</sup> May 2006 and have two biological children aged 8 and 6 years respectively. The adoptive father is gainfully employed inKenya where the family currently resides. The female applicant has set up a business which is yet to pick up in terms of sales. The 1<sup>st</sup> applicant is well remunerated and his employer meets most of the family's financial needs including medical, utility charges and school fees. The couple owns a 4 bedroom house in Finland. The adopting parents were both practicing Christians of the Lutheran background. Theirs is a monogamous marital union blessed with two biological children both boys aged 7 and 6 respectively. Their motivation to adopt a child is their shared desire to have a third child who was not biological, which they consider a positive means of giving back to society and help a needy child. The applicants have proposed a new name for baby J which they intend to give once an adoption order is obtained from this court, with authority to rename him as proposed.
4. The applicants have filed the requisite statements and affidavits in support of the application, bearing all the supporting documents as required by the law. These include financial/income statements and a home study report which highly recommends the applicants as adoptive parents.
5. On 27<sup>th</sup> April, 2012 on the applicants' application, **A. S.N** of P.O. Box [.....] Nairobi was appointed the Guardian ad Litem for the purposes of this adoption. She filed a report dated 16<sup>th</sup> May 2012, primarily stating that **Baby J** has bonded well with the adoptive family, is happily settled in their care and is well taken care of. She also vouches for the adoptive parents' suitability and capability to bring up the child and the other children well and to provide for the children in a manner that will guarantee not only the necessary day to day care and attention but also the best upbringing for the adopted minor, **Baby J**.
6. In the unlikely event that they become incapacitated or die, before the child attains the age of majority, the adopting parents have appointed **L.J.I, T.J.I and M.J.L** to be the legal guardians of the adopted child. The three have consented so to act. Both the Director of Children's Services and Guardian ad Litem recommend that the applicants be granted the authority to adopt the child being of the view that it will be in the best interests of the minor.
7. The applicants have furnished the court with all the documentation necessary to support the exparte Originating Summons as required under the relevant adoption laws and rules. They have produced, inter alia, the requisite approval of the Finnish Government, through its Ministry of Social Affairs and Health, to adopt a Foreign Child, with the requisite confirmation that the adoption order, once granted will be recognized in Finland and accord the minor automation right to citizenship.
8. At the hearing of the application, it was submitted that Baby J was born on 6<sup>th</sup> December 2010 and abandoned soon thereafter at the Ruiru District Hospital by his mother. The matter was reported to the police at Ruiru police station vide OB NO: [.....].He was then admitted at the Nest Children Home on 15<sup>th</sup> December 2010 and committed at the same home vide to a committal order issued by the Children's Court, Thika on 11<sup>th</sup> February 2011.
9. The Ruiru police having formally informed Nest Children Home that no claim had been made with them over the infant, **Baby J** was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angels Network, an accredited adoption society, on 10<sup>th</sup> August 2011. He was thereafter released and placed under the foster care of the applicants in December 2011 under a Release Agreement entered between them and Nest Children Home, annexed as annexure "**JMI 5**" to the applicants' affidavit in support of the adoption application. The minor has been under their care and custody since.
10. The requisite studies and investigations have been carried out in regard to the applicants' suitability to adopt the infant and reports thereof duly filed. The report by the Director of Children's services, ordered by this court on 27<sup>th</sup> April 2011 and was filed on 30<sup>th</sup> May 2012, recommending the adoption and the renaming of **Baby J** by the applicants, who, according to the Director of Children's Services have proved that they are financially and socially capable of permanently fulfilling parental responsibilities over the minor.
11. In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children's Services, and thoroughly examined all the documentation filed in support thereof also the prerequisite investigation and pre replacement report by Little Angels Network. 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 infant, 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 financially able, medically and morally fit to adopt **Baby J**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment with their extended family offering to give their support in his up-bringing.

12. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of BabyJ. Accordingly, the Originating Summons is hereby allowed and orders granted in terms of prayer 3 thereof with the consent of the biological parents of the adoptive child being dispensed with. I further order and direct that the Registrar General makes the necessary entries in the Adoptions Register in recognition of this adoption.

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

**M.G. MUGO**

**JUDGE**

In the presence of :  
for the applicants.