



## IN THE MATTER OF BABY K. M.

### JUDGEMENT

1. Before me is an application for an adoption order, dated 31<sup>st</sup> March 2011, brought inter alia under **Sections 154, 156, 158(1) (a), 4(a), and 170 of the Children’s Act, 2001(Act No. 8 of 2001), Sections 24 of the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya)** (by dint of which the **Adoption Rules under the Adoption Act - Cap 143** (repealed) apply).
2. The applicants herein, **P.O.A.** (the 1<sup>st</sup> applicant) and **R.W.A.** (the 2<sup>nd</sup> applicant), a married couple of P.O. Box [.....]Nairobi, have moved the court, praying that they be authorized to adopt and rename a baby boy presently identified and known as **K.M.** who, for the purposes of this ruling shall, where necessary, be referred to either **“Baby K.”** or **“the child”**. The applicants propose that he be known as **L.M.A** upon adoption.
3. Both applicants are Kenyan citizens. The 1<sup>st</sup> applicant is 47 years old while the 2<sup>nd</sup> applicant is 48 years old. The couple started cohabiting in 1991 and formalized their union in a Christian marriage solemnized at Holy Family Basilica, Nairobi on 15<sup>th</sup> August 1992. They have two children of the marriage, who have both given their consent to the proposed adoption. The applicants are both [*particulars withheld*] by profession and are gainfully employed in the public service. They also own immovable property from which they earn rental income, in addition to a piece of land in [*particulars withheld*] County. The applicants have filed the requisite statement and affidavit in support of the application, bearing all the supporting documents as necessary.
4. On 13<sup>th</sup> May 2011, on the applicants’ application, **N.Y.K** was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a brief but comprehensive report dated 23<sup>rd</sup> April 2012, primarily stating that the child, had bonded well with adoptive family, is happily settled in their care and is well taken care of. The Director of Children’s Services on the other hand has in the report filed on 5<sup>th</sup> October 2011, 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 the child, being of the view that the adoption is in his best interests.

5. At the hearing of the application, it was submitted "**Baby K**" was found abandoned in Nairobi on 6<sup>th</sup> July 2009 and was placed at **Dr. Thomas Barnardo's Children's Home**, where he was formally committed on 14<sup>th</sup> August 2009 vide a committal order of the Nairobi Children's Court. The police have stated in their letter of 12<sup>th</sup> March 2010 issued from the Industrial Area police station that no-one has ever claimed the child.

6. The child has been under the continuous care and custody of the applicants since 10<sup>th</sup> May 2010. On 13<sup>th</sup> April 2010 **Baby K** was certified free for adoption under a Certificate of Declaration to that effect issued by the Kenya Children's Home Adoption Society. The requisite studies and investigations have been carried out in regard to applicants' suitability to adopt the child and requisite reports duly filed. The report by the Director Children's Services, ordered by this court on 13<sup>th</sup> May 2011 was filed on 5<sup>th</sup> October 2011, recommending the adoption and renaming of **Baby K** by the applicants, who, according to the Director of Children's Services have proved that they are both financially and socially capable of permanently fulfilling parental responsibilities over the child.

7. 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, including the Home Study Report of the Kenya Children's Home Adoption Society dated 14<sup>th</sup> March 2011 . 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 K**. Moreover, the applicants have appointed suitable legal Guardians for the child in the unlikely event of their becoming incapacitated or even dying. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment and their biological children have also welcomed the child and do treat him as a brother.

8. I have no reservations about allowing the application, being satisfied that

the proposed adoption would be in the best interests of **Baby**

**K.** Accordingly, the Originating Summons dated 31<sup>st</sup> March 2011 hereby allowed and orders granted in terms of prayers 3, 4, 5 and 6.

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

**M.G. MUGO**

**JUDGE**

**In the presence of:**

Mr. Mwenda for the  
applicants.