



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KISII**  
**ADOPTION CAUSE NO. 12 OF 2014**  
**IN THE MATTER OF THE CHILDREN ACT**  
**AND**  
**IN THE MATTER OF BABY J K A MINOR**

**J A M.....1<sup>ST</sup> APPLICANT**

**D A K.....2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants **J A M** and **D A K** are Kenyan citizens residing in Migori County. They practice Christian religion but were married under the Luo Customary Law.
2. The applicants do not have a biological child or any other child of their own. The applicants wish to adopt baby **J K A**. The applicants made a joint adoption application to Little Angels Network on 14<sup>th</sup> September 2011 and were assessed and found to be suitable to adopt a child by the adoption officer and director through their report dated 4<sup>th</sup> April 2012. The approval and pre-placement report was issued on 4<sup>th</sup> April 2012.
3. Baby **J K A**, the child, who is the subject of these adoption proceedings was born on 10<sup>th</sup> July 2011 at Vihiga District Hospital to 16 year old **R A** and 17 year old **B L** who are reported to be relatives. According to the baby's parents custom, a child born of such a relationship cannot be nursed or brought up within the parents' community. On 14<sup>th</sup> July 2011, the family of **R A** and **B L** approached the Vihiga District Children's Officer seeking help to surrender the child because he was born out of an incestuous relationship.
4. The baby's biological parents then signed an initial consent to willingly surrender the child for placement in a children's home for adoption and the child was subsequently placed into New Life Home Trust-Kisumu.
5. On 6<sup>th</sup> September 2011 **A M N**, the baby's paternal grandmother signed the 6 weeks legal consent which was duly attested to by an advocate of the High Court of Kenya while the child's maternal

grandfather signed the 6 weeks legal consent on 12<sup>th</sup> October 2011.

On 10<sup>th</sup> May 2012, the child was committed into the legal custody of New Life Home – Trust Kisumu vide Protection and Care Case No. 06 of 2011 at the Senior Resident Magistrate's Court at Vihiga for a period of 18 years with the help of Vihiga District Children's Officer.

6. On 4<sup>th</sup> June 2012, the child was discharged from the Children's Home at New Life Home Trust – Kisumu and placed into the care of the applicants' for compulsory foster care pending adoption. The child has been in the care of the applicants from 4<sup>th</sup> June 2012 to – date.

7. According to the report from Vihiga Children's Officer and the Adoption Officer, the child was willingly surrendered for adoption by his biological parents and relatives. The relevant consents of the child's paternal and maternal grandparents were obtained. Neither the Vihiga Children's Office nor the New Life Home Trust Kisumu have received any claim on this matter.

8. On 23<sup>rd</sup> May 2015, the Case Committee of Little Angels Network deliberated on the adoption of the child and were satisfied that the child was free for adoption and that the adoption would be in his best interest. A **certificate number [Particulars withheld]** was then issued declaring the child free for adoption pursuant to **Section 156 (1) of the Children Act** and **Adoption Regulations Kenya Gazette Supplement No. 37**.

9. The court perused the detailed report prepared by the Little Angels Network, the local adoption society, which report is favorable and recommends the applicants' suitability to adopt the child. This is a local adoption for which the applicants have been found suitable and they have had custody of the child since 4<sup>th</sup> June 2012. During that period the child bonded with the applicants.

10. During the viva voce hearing of these proceedings, the 2<sup>nd</sup> applicant informed the court that her husband, the 1<sup>st</sup> applicant died in the year 2014, but that she was a business lady running a beauty boutique among other business interests and that she was thus financially and emotionally capable of taking care of the subject child. She nominated her sister **J A K** to be guardian ad litem of the child in the event that she was incapable of taking care of him.

11. The applicant stated that she would like to call the child **G K M** in the event that she is granted the adoption orders.

12. In the premises, this court finds that the 2<sup>nd</sup> applicant has met the criteria set for local adoptions. The 2<sup>nd</sup> applicant **D A K** is hereby authorized to adopt bay **J A K** who shall henceforth be known as **G K M**. His date of birth shall be 10<sup>th</sup> July 2011. His place of birth shall be Vihiga District Hospital in Vihiga County.

13. He is therefore presumed to have been born in Kenya. **J A K**, the sister of the 2<sup>nd</sup> applicant is hereby appointed to be the legal guardian of the child should a misfortune befall the 2<sup>nd</sup> applicant. The Registrar General is hereby directed to enter this order in the adoption register. The guardian ad litem is hereby discharged.

14. It is so ordered.

**Dated, signed and delivered in open court this 14<sup>th</sup> day of December, 2016**

**HON. W. A. OKWANY**

## **JUDGE**

### **In the presence of:**

- Mr. Moracha for the applicant
- Omwoyo court clerk



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