



**In re Baby MM (Minor) (Adoption Cause E140 of 2023)
[2024] KEHC 15458 (KLR) (Family) (25 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 15458 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E140 OF 2023
EKO OGOLA, J
JUNE 25, 2024
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY MM
(MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION
BY PKM AND KM**

JUDGMENT

1. The Originating Summons before this court is dated 21st July 2023 by which the applicants pray for the following orders: -
 - a. That the applicants herein be authorized to adopt the said minor MM.
 - b. That the minor's name MM be changed to MMMM.
 - c. That the Registrar General do make the appropriate entries in the Adopted Children's Register in respect of the minor.
 - d. That the Registrar of Births and Deaths do issue an amended Certificate of Birth in respect of the amended name of the minor thereof.
 - e. That HM and RNM are appointed to be the minor's legal guardians in the event of death or incapacity of the applicants before she is of full age and fully self-reliant.
 - f. That the guardian ad litem WG be discharged.



- g. That the Court does issue such other orders as may be necessary in the best interest of the minor.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicant and an affidavit in support. The matter was canvassed by way of viva voce evidence in court.
 3. PW 1 was the 1st applicant. He testified that the child is the biological daughter of his wife and that the purpose of this adoption was to unite the family.
 4. PW2 was the CMM, the child's biological grandmother. PW3 was WG, the guardian ad litem. PW4 was CO, an officer from the Directorate of Children's Services. PW5 was LM, an officer from the Change Trust Adoption Society. They all testified in support of the adoption.

Determination

5. I have carefully considered this adoption application, the various affidavits and reports on record as well as the relevant law. I have also considered the evidence adduced in open court.
6. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the Children's Act 2022 which provides as follows:

184 (1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”
7. The child is the biological daughter of the 2nd applicant and her ex-husband AM. They divorced and she was granted full custody was granted to her and the father has not been in their lives. The 1st Applicant has assumed the father figure and responsibility since 2011.
8. The child was declared free for adoption by the Change Trust Adoption Society on 15th March 2024 under Certificate No. 00658. Therefore, the legal prerequisites for an adoption order have accordingly been met.
9. The duty of this Court is to analyze the material placed before it and decide as to whether the applicants are suitable adoptive parents. The Applicants are a Kenyan citizen and are financially stable. Hence, they are in a good position to provide for the needs of the child. The applicants were also examined and found to be physically and mentally fit. Furthermore, there are copies of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicants have no criminal antecedents. From the foregoing, I am satisfied that the applicants are a suitable adoptive parent.
10. Article 14 of *the Constitution* deals with the issue of Citizenship. Article 14(4) provides as follows:

(4) A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by birth.”
11. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1)(a) of the *Children Act* 2022 provides:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”
12. The child has lived with the applicants for 2011. There is no doubt that the child sees the 1st applicant as her father. The various reports filed in court all recommend the adoption. Therefore, I am satisfied



that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -

- a. The Applicants are authorized to adopt the child known as Baby MM.
- b. Upon adoption, the child will be known as MMMM.
- c. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- d. HM and RNM is appointed as the legal guardian of the child.
- e. The guardian ad litem is hereby discharged.

Orders accordingly

DATED AND DELIVERED AT NAIROBI THIS 25TH DAY OF JUNE 2024

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E.K. OGOLA

JUDGE

In the presence of:

Ms. Mureithi for the Applicant

Ms Gisiele M court Assistant

