



REPUBLIC OF KENYA



**In re Baby RT (Minor) (Adoption Cause E180 of 2023)
[2024] KEHC 15520 (KLR) (Family) (25 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 15520 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E180 OF 2023
EKO OGOLA, J
JUNE 25, 2024
N THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY RT (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY PNM**

JUDGMENT

1. The Originating Summons before this court is dated 14th September 2023 by which the applicant prays for the following orders: -
 - a. That the child be presumed to be a Kenyan citizen by birth.
 - b. That the Director of Immigration be authorized to issue the child with a Kenyan Passport.
 - c. That the applicant PNM be authorized to adopt the child to be known as MMJTM.
 - d. That PMM, EWK and SGM be appointed as the legal guardians of the child in the event of the death or incapacity of the applicants before the child is of full age and fully self-reliant.
 - e. That the Registrar General do make an entry of this adoption in the adopted children register.
 - f. That the court be pleased to make any further orders it deems necessary.
2. The Originating Summons was supported by the statement of even date sworn by the applicant and an affidavit in support. The matter was canvassed by way of viva voce evidence in court.
3. PW1 was the applicant. She testifies that she is unmarried and she has a daughter. The applicant added that she works as a doctor. Therefore, she is financially capable of taking care of the child.



4. PW2 was CO, an officer from the Directorate of Children’s Services. PW3 was JNM, the guardian ad litem. PW4 was JMW an officer from Little Angels Adoption Network. PW5 and PW6 were SGM and PMM, the proposed legal guardians. They all testified that they had visited the applicant and the child. The child has bonded well with the applicant. They all recommend the adoption. PW5 and PW6 testified that they understand the role of a legal guardian and that they wish to be appointed as one.

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 was born in Ponya Medical Clinic in Ruiru on 18th April 2022. The biological mother, Miriam Kiboi Chengoli opted to give the child up for adoption. Her reason was that she had a brief affair with the biological father of the child that resulted in a pregnancy. The biological father was not part of the pregnancy and from that, would not be part of the child’s life.
8. The child was handed over to New Life Adoption Agency on 26th April 2022. The child was declared free for Adoption on 11th November 2022 by Change Trust Adoption Society vide Certificate No. 00541. Subsequently, the child was then placed with the applicant on 3rd February 2023.
9. Therefore, the legal prerequisites for an adoption order have accordingly been met.
10. The duty of this Court is to analyze the material placed before it and decide as to whether the applicant is a suitable adoptive parent. The Applicant is a Kenyan citizen and she is financially stable. Hence, she is in a good position to provide for the needs of the child. The applicant was also examined and found to be physically and mentally fit. Furthermore, there is a copy of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicant has no criminal antecedents. From the foregoing, I am satisfied that the applicant is a suitable adoptive parent.
11. 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.”

The child was born to a Kenyan mother in Ruiru Nairobi. This is within the Republic of Kenya. The child is therefore a Kenyan Citizen.



12. 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.”

13. The child has lived with the applicant in her home for close to one year. There is no doubt that the child has bonded with the applicant and considers her as her mother. 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 Applicant PNM is authorized to adopt the child known as Baby Baby RT.
- b. Upon adoption, the child will be known as MMJTM.
- c. The child is declared a Kenyan citizen by birth. The birth date shall be 18th April 2022, and the place of birth shall be Ruiru.
- d. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- e. The Director of Immigration Services is directed to issue the child with a passport.
- f. PMM, EWK and SGM are appointed as the legal guardian of the child.
- g. 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:

Mr. Kariuki for the Applicant

Ms Gisiele M court Assistant

