



**In re JBM (Minor) (Adoption Cause E062 of 2022)
[2024] KEHC 9637 (KLR) (Family) (26 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 9637 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E062 OF 2022
H NAMISI, J
JULY 26, 2024**

IN THE MATTER OF

PMT 1ST APPLICANT

MWM 2ND APPLICANT

JUDGMENT

1. The Originating Summons dated 17th March 2024, seeks the following orders:
 - i. That the Applicants be authorised to adopt JBM, a minor, who is to be known as JBM and the Registrar General be directed to enter this adoption into the Register of Adoptions;
 - ii. That JMT and RNM be appointed as the legal guardians of the minor;
 - iii. That the child be indicated to have been born in Kenya;
2. The Application is supported by a Statement and Affidavit in Support of the Application by the Applicants.
3. The matter was canvassed by way of *viva voce* evidence on the virtual platform on 27th June 2024.

The Child

4. The child (male) was born on 3rd December 2014. His Certificate of Birth is annexed to the Originating Summons. The name of his biological mother is indicated as M.W.M while that of his father is not indicated. He is currently 9 years. The child attends St. Austins Junior Academy where he is enrolled in grade 4. From the Reports attached, his performance at school is high. The 2nd Applicant is his biological mother and he refers to the 1st Applicant as “dad”. The child has resided with the Applicants for about 4 years.



5. The child was declared free for adoption vide Certificate serial number 00654 issued by Change Trust, a registered adoption agency.

The Applicants

6. The Applicants are a married couple, residing in Karen Nairobi. They got married on 20th December 2023. A copy of their Certificate of Marriage is annexed to the Application. The 1st Applicant is a dual citizen of Kenya and the US, while the 2nd Applicant is a Kenyan citizen. The child herein is the 2nd Applicant's son from a previous relationship, who has been in the sole custody of the 2nd Applicant. The Applicants were blessed with a son, MTM, born in December 2021. This adoption application is provided for under section 193 of the [Children Act](#).
7. The 1st Applicant is 41 years old, working as a consultant for bank compliance. He assumed parental responsibility over the child since 2021. He confirmed that he understood the implications of an Adoption order and that the same is irreversible.
8. The 2nd Applicant is an accountant, working with an automotive company. She is also the biological mother of the child herein. It was her testimony that the biological father of the child has not been a part of their lives since the birth of the child. The 2nd Applicant has been the sole custodian of the child and has provided for him since birth. She signed a consent to adoption dated 21 February 2024
9. The Applicants' motivation for adopting the child is captured at paragraphs 12 and 13 of their Statement dated 17 March 2024 as follows:
 17. That we would like to make this adoption application as a married couple as we desire to offer the minor child a stable family unit and the 1st Applicant wishes to extend more financial, educational and medical benefits to the minor child up till he attains the age of majority and even beyond.
 18. That further, the 1st Applicant would also wish to have legal ties to the minor child as we believe he will have a better chance of securing his future in case of death or any other eventuality."
10. The Applicants confirmed that they fully understand the legal implications of the Adoption Order.
11. Additionally, pursuant to section 195 of the Act, the Applicants provided a consent dated 17th March 2024 from J.M.T, a brother to the 1st Applicant, agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants. J.M.T resides in New Jersey, USA. He indicated that he fully understands his role and responsibilities as a legal guardian.

The Adoption Approval Process

12. Change Trust conducted an assessment of the Applicants and interviewed the child. Although the child was not familiar with the adoption process, he was happy to recognise the 1st Applicant as his father. The Agency filed its report dated 1st March 2024 declaring the child free for adoption and recommending the adoption.
13. On 9th May 2024, the Court issued an order appointing Symon Machariah as the minor's Guardian *ad Litem*, and further directing the Guardian *ad Litem* and Director of Children's Services to investigate the suitability and fitness of the Applicant and subsequently file their respective reports within 30 days.
14. The Guardian *ad Litem* filed his report dated 24th May 2024, confirming that the child had adapted well, is very attached to the Applicants and that he has developed an excellent relationship with the



1st Applicant. The Directorate of Children's Services, Nairobi County filed its report dated 20th May 2024, recommending the adoption of the child by the Applicants herein.

15. Section 193(1) of the [Children Act](#) provides that kinship adoption order may only be made in favor of a relative of the child. In this instance, the 2nd Applicant is the biological mother of the child.
16. In view of the foregoing, the court is satisfied that:
 - i. The proposed adoption is a kinship adoption, meaning that the child will continue to be within the family.
 - ii. The adoption will be in the best interest of the child; and
 - iii. The Applicants have been approved as a prospective adoptive parent by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus they are able to effectively handle their parental responsibilities
17. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
 - i. The Applicants, P.M.T and M.W.M, are hereby authorised to adopt the child currently known as JBM;
 - ii. The Registrar General is directed to enter this Order in the Adopted Children's Register and to issue a Certificate to that effect;
 - iii. That the Guardian *ad Litem* is hereby discharged;
 - iv. That JMT is hereby appointed as the legal guardian of the child JBM.

DATED AND DELIVERED AT NAIROBI THIS 26 DAY OF JULY 2024

HELENE R. NAMISI

JUDGE

Delivered on a virtual platform in the presence of

Ms..Kemunto h/b Ms Ambaka.....for the Applicant

