



**In re JN (Baby) (Adoption Cause E137 of 2024)  
[2024] KEHC 11643 (KLR) (Family) (30 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 11643 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E137 OF 2024  
PM NYAUNDI, J  
AUGUST 30, 2024  
IN THE MATTER OF THE CHILDREN'S ACT NO. 29 OF 2022  
IN THE MATTER OF ADOPTION OF BABY JK**

**IN THE MATTER OF**

**EMN ..... APPLICANT**

**JUDGMENT**

1. This is a kinship adoption as the applicant is a sister to LWN (Deceased) who was the mother of the minor JK , whom she seeks to adopt *vide* Originating Summons dated 11<sup>th</sup> June 2024.
2. The matter proceeded for hearing via *viva voce* evidence on the Teams virtual platform The Applicant is Kenyan Citizen residing in The United Kingdom. She avers that she has the financial means and capability to take care of the Child. The applicant is a nurse. She fully understands the consequences of an adoption order.
4. The minor is a nephew to the Applicant. The mother, LWN is deceased as per certificate of death serial number 15439999 dated 2<sup>nd</sup> May 2024. The minor was born on 1<sup>ST</sup> September 2006 as per certificate of Birth serial number 7370831487.
6. Ms. Ikinya, Assistant Director Children Services, produced report dated 14<sup>th</sup> August 2024. The report recommends the adoption. The Guardian Ad Litem, Caroline Wambui Njuguna also attended Court and produced her report dated 22<sup>nd</sup> August 2024 in which she confirms she undertook home visits and interviewed the Applicant, minor and is satisfied that the adoption will be the interests of the minor. She therefore recommends the adoption.
7. The proposed Legal Guardian HMN attended court and confirmed he is willing to take up the role of legal guardian. He is a cousin to the Applicant. He confirms that he understands the role of a legal



guardian and is prepared to assume parental responsibility for the minor in the event that the Applicant is unable to discharge her responsibilities.

8. JK the minor attended court. He confirmed he knows the Applicant. He confirmed that he is 17 years old. He has completed his high school. He recognizes the Applicant as his maternal aunt. He gives his consent to the adoption.
10. This is a kinship adoption under Section 193 of the *Children Act*, 2022 and Annex C at Page 153 of the guidelines for Alternative family care of Children in Kenya, 2014 which defines Kinship adoption as adoption of a child by a person who is a relative of the child.
11. After carefully assessing the records herein, I am satisfied that the applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the *Children Act*, 2022 provides.

The Court may make an adoption order on application

- (1) by-
  - a. A sole applicant; or
  - b. Two spouses jointly.
- (2) The Court shall not make an adoption order in any case unless—
  - a. The applicant has attained the age of twenty-five years, but is not above the age of sixty-five years: and
  - b. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
- (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.

12. The Applicant is 48 years old

13. Article 53 of the *Constitution* of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

A Child's Best interests are of paramount importance in every matter concerning the child

14. This principle is restated Under Section 8 of the *Children Act*, 2022 which provides

Best interests of the child.

In all actions concerning children, whether undertaken

(1) By public or private social welfare institutions, courts of Law, administrative authorities, or legislative bodies—

(a) The best interests of the child shall be the primary consideration;

(b) The best interests of the child shall

Include, but shall not be limited to the Considerations set out in the First Schedule.

Section 194 (1) (c) of the *Act* also requires that if the adoption order is made the order will be in the best interests of the child, having regard to the wishes of the child, depending on the



child's age and understanding, and to the ability of the applicant to maintain and educate the child;

15. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the Applicant. Accordingly, I allow the prayers sought in the Originating Summons dated 11<sup>th</sup> June 2024 and order as follows:

- I. The Applicant EMN be allowed to adopt JK .
- II. The Child is to be known as JK
- III. The Child be presumed to be a Kenyan citizen by birth.
- IV. The child's date of Birth is 1<sup>st</sup> September 2006
- V. HMN is hereby appointed as legal guardian of the Child
- VI. The Registrar is hereby directed to enter this adoption into the Register of Adopted Children.
- VII. The Director of Immigration is authorized to issue the child with a Kenyan passport.
- VIII. The Guardian Ad litem is discharged.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS...30<sup>TH</sup> DAY OF AUGUST 2024**

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**P M NYAUNDI**

**HIGH COURT JUDGE**

In the presence of

Mr. owala Advocate for the Applicant

Sylvia Court Assistant

