



In re Adoption of Baby SF alias Abandoned Unknown Baby Boy alias Baby SFM (Minor) (Adoption Cause E058 of 2024) [2024] KEHC 10494 (KLR) (Family) (29 August 2024) (Judgment)

Neutral citation: [2024] KEHC 10494 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E058 OF 2024
H NAMISI, J
AUGUST 29, 2024
IN THE MATTER OF THE CHILDREN ACT, CAP 141 OF THE LAWS OF KENYA
AND
IN THE MATTER OF ADOPTION OF BABY S.F. ALIAS
ABANDONED UNKNOWN BABY BOY ALIAS BABY S.F.M (MINOR)**

IN THE MATTER OF

**KM 1ST APPLICANT
R.MN 2ND APPLICANT**

JUDGMENT

1. The Applicants filed an Originating Summons dated 11 March 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. That the child be presumed to be a Kenyan citizen by birth;
 - ii. That the Director of Immigration be authorised to issue the child with a Kenyan passport;
 - iii. That the Applicants, K.M and R.M.N, be authorised to adopt the child to be known as D.M;
 - iv. That J.M.Z and J.M.M, be appointed as legal guardians of the child in the event of death or incapacity of the Applicants before the child is of full age and fully self-reliant;
 - v. That the Registrar General do make an entry of this adoption in the Adopted Children’s Register;
 - vi. That the Court be pleased to make any further orders it deems necessary.



2. The matter was canvassed by way of viva voce evidence on the virtual platform on 27 June and 18 July 2024.

The Child

3. The child (male) was born on 11 March 2019. The child was found abandoned at Kawangware Deliverance Church area on 17 April 2019. The child was rescued and the matter reported to the Muthangari Police Station vide OB No. 26/17/04/2019. Through investigations, the father of the child was found and arrested. He was released on cash bail at the Police Station and disappeared without trace.
4. The child was formally committed New Life Trust Home on 15 January 2020. He was declared free for adoption by Buckner Kenya Adoption Services on 3 March 2023 under certificate number 0623. I am, therefore, satisfied that this legal pre-requisite for an adoption has been met. He was placed with the Applicants on 7 July 2023 and has been in their care and control since.

The Applicants

5. The Applicants are Kenyan citizens, aged 47 years and 48 years, respectively. They have been married for 11 years and reside in Nairobi. The 1st Applicant is employed as a Security Guard, while the 2nd Applicant is a business lady. During their marriage, the Applicants were blessed with one child, who unfortunately, passed away.
6. The Applicants presented copies of their Mpesa Statements, Pay slip, Medical Reports and Certificates of Good Conduct as proof that they are financially, emotional and socially capable of handling parental responsibilities and raising the child in a loving, nurturing environment. They confirmed that they fully understood the implications of an Adoption Order and that the same is irreversible.
7. The Applicants proposed J.M.N and J.M.M to be the legal guardians of the child. The proposed legal guardians are a couple and had filed their consents dated 8 May 2024. JMM is a sister to the 1st Applicant. They confirmed that they fully understand the implications of the order and had willingly consented to the appointment.
8. Efforts to trace the biological parents of the child proved futile. A letter dated 18 August 2020 from New Life Home Trust indicates that the father of the child had agreed to meet with New Life as well as the sub-country Children's Officer sometime in May 2019, but he failed to turn up. The final letter from the Muthangari Police Station dated 8 August 2020 indicates that the father's whereabouts were still unknown. I, therefore, dispense with the requirement for consent from the biological parents.

The Adoption Application

9. I have considered the Summons, the evidence on record as well as the various reports filed in a bid to determine whether the Applicants are suitable adoptive parents.
10. Kenya Children's Home Adoption Society conducted an assessment of the Applicants and filed a report dated 8 July 2024. At the hearing, the child seemed very shy, but was able to identify the Applicants as "mom" and "dad".
11. On 11 April 2024, the Court issued an order appointing Danson Thuo Kuria as the child'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.



12. The Guardian ad Litem filed her report dated 30th April 2024, recommending the adoption. The Directorate of Children's Services, Nairobi County filed its report dated 29 April 2024, recommending the adoption of the child by the Applicants herein.
13. From the material availed and oral testimonies, I am satisfied that the Applicants are quite suited to be adoptive parents.
14. Accordingly, I allow the Originating Summons and make the following orders:
 - i. That the Applicants, K.M and R.M.N, are allowed to adopt the child currently identified as Baby S. F alias Abandoned Unknown Baby Boy alias Baby S.F.M;
 - ii. That henceforth, the child shall be known as D.M;
 - iii. The child is declared to be a Kenyan citizen by birth, entitled to all the rights and privileges under *the Constitution* of Kenya and all applicable laws;
 - iv. J.M.N and J.M.M are appointed as legal Guardians of the child,
 - v. The Guardian ad Litem is hereby discharged;
 - vi. That the Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;

DATED AND DELIVERED AT NAIROBI THIS 29 DAY OF AUGUST 2024

HELENE R. NAMISI

JUDGE

Delivered on a virtual platform in the presence of
,Ms. Walubengo.....for the Applicants

