



**In re BCK (Minor) (Adoption Cause E054 of 2024)
[2024] KEHC 10495 (KLR) (Family) (29 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10495 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E054 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 B.C.K. (MINOR)

AND

IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION

IN THE MATTER OF

RK 1ST APPLICANT

SSK 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 27 January 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. (spent)
 - ii. That the Applicants, R.K and S.S.K, be authorised to legally adopt B.C.K;
 - iii. The minor be presumed to be a Kenyan citizen by birth and be accorded all rights of immigration that accrue to Kenyan citizens;
 - iv. That the Registrar General do make the appropriate entry of B.C.K the minor herein in the Register of Adoptions;
 - v. That the Director of Immigration Services do issue the minor, B.C.K, a Kenyan passport upon application;



2. The matter was canvassed by way of *viva voce* evidence on the virtual platform on 20th June 2024.

The Child

3. The child (female) was born on 24th December 2011, and is currently aged 7 years in Grade 6 at XXXXX Primary School. She was born to M.M.K and L.K.K. The child knows the Applicants. The 2nd Applicant is her maternal aunt. The child wrote a consent letter dated 24 November 2023, indicating that she knows the Applicants well and consents to the adoption process.

The Applicants

4. The Applicants are Kenyan/Canadian citizens. They reside in Edmonton, Canada. They have been married for 26 years. They have 3 children of their own, aged 26 years, 24 years and 18 years.
5. The 1st Applicant is a senior project manager, while the 2nd Applicant is a Business Administrator and Receptionist. The 2nd Applicant is the maternal aunt to the child, hence the application for kinship adoption as provided under section 193 of the *Children Act*.
6. It is the Applicants' wish to adopt the child and eventually relocate her to Canada, with a view to providing the minor with better opportunities available to her in Canada. The Applicants stated they frequently interact with the child and spend a lot of time with her whenever they visit Kenya. The Applicants confirmed that they fully understand the legal implications of the Adoption Order.
7. The Applicants exhibited their Bank Statements, Pay Slips, medical particulars, recommendations and referee information, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose that the Applicants are financially, socially, physically and mentally fit to adopt the child.

The Biological Parents

8. The biological mother, M.K.K, confirmed that she had consented to the adoption of the child herein, who is her second born. She confirmed that she fully understands the legal implications of the Adoption Order and knows that the child will eventually relocate to Canada.
9. The biological father, L.K.K, confirmed his consent to have his child adopted. He further confirmed that he understood that the order is irreversible.

The Adoption Approval Process

10. Change Trust conducted an assessment of the Applicants and sought the consent of the biological parents, the minor as well as members of the extended family. The Agency filed its report dated 28 November 2023 recommending the adoption of the child. The child was declared free for adoption by Change Trust vide a Certificate of Declaring a Child Free for Adoption serial number xxxx9.
11. On 29 April 2024, the Court issued an order appointing Edwin RXXXX 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 within 30 days.
12. The Guardian *ad Litem* filed his report dated 24 May 2024, noting that the Applicants will provide a safe, loving and nurturing home for the child. The Directorate of Children's Services, Nairobi County filed its report dated 31 May 2024, recommending the adoption of the child by the Applicants herein.
13. 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 Applicant is a maternal aunt to the child.



14. 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 prospective adoptive parents by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus he is able to effectively handle their parental responsibilities
15. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
- i. The Applicants, R.K and S.S.K, are hereby authorised to adopt the child known as B.C.K;
 - 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;

DATED AND DELIVERED AT NAIROBI THIS 29 DAY OF AUGUST 2024

HELENE R. NAMISI

JUDGE

Delivered on a virtual platform in the presence of

Mr. Kariuki.....for the Applicants

