



**In re CM (Minor) (Adoption Cause E056 of 2024)
[2024] KEHC 10486 (KLR) (Family) (29 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10486 (KLR)

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

FAMILY

ADOPTION CAUSE E056 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 KINSHIP ADOPTION OF BABY C. M. (MINOR)

IN THE MATTER OF

EWV APPLICANT

JUDGMENT

1. The Applicant filed an Originating Summons dated 8 March 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. (spent)
 - ii. That the Applicant, E.W.W., be authorised to adopted Baby C.M;
 - iii. That C.K.K be appointed as legal guardian of Baby C.M;
 - iv. That the Registrar General be directed to enter this adoption into the Register of Adoptions;
 - v. That the child be presumed to be a Kenyan citizen, entitled to all the rights that accrue to a Kenyan citizen under the Constitution 2010 and under the Kenyan Citizenship and Immigration Act;
2. The matter was canvassed by way of *viva voce* evidence on the virtual platform on 11 July 2024.



The Child

3. The child (male) was born on 19 August 2019 to EWK. Details of the father are not provided. The child, almost 5 years old, has lived with the grandmother, C.K.K. since birth. The child is a nephew to the Applicant; his biological mother and the Applicant are cousins.
4. The child was declared free for adoption on 6 October 2023 by the Change Trust, a registered Adoption Agency, vide the annexed Certificate serial number 00621. I am, therefore, satisfied that this legal pre-requisite for an adoption has been met.

The Applicant

5. The Applicant is Kenyan citizen, aged 42 years. She resides in Nairobi and is currently employed in the communications industry. The Applicant is single, with no children of her own. She confirmed that she has been providing and caring for the child since he was born, and has been a guardian to the child's biological mother as well.
6. The Applicant confirmed that she fully understands the implications of an adoption order and that the same is irreversible.
7. The Applicant proposed CKK to be the legal guardian of the child. CKK is grandmother to the child and has been living with him since birth. She confirmed that she fully understands the implications of the order and had willingly consented to the appointment.

The Biological Mother

8. The biological mother, E.W.K, is 27 years old. Although there is no consent for adoption provided in the documents, there is an Explanatory Memorandum for Biological Parent/Guardian provided by Change Trust which has been signed by E.W.K. Similarly, the biological mother has signed the Form of Certificate of Acknowledgement dated 3 March 2023. The biological mother appeared in court and confirmed that she had given consent to the adoption of her child by the Applicant herein. She further confirmed that she fully understood the implication of the adoption order.

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 Applicant is a suitable adoptive parent.
10. Change Trust conducted an assessment of the Applicant. Although the child was not interviewed, bonding between the child and Applicant was observed. At the hearing, the child identified the Applicant and appeared to be comfortable with her. The Agency filed its report dated 6 October 2023 declaring the child free for adoption and recommending the adoption.
11. On 8 March 2024, the Court issued an order appointing Hellen Nduta Kimani 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 4th June 2024, recommending the kinship adoption. The Directorate of Children's Services, Nairobi County filed its report dated 9th July 2024, recommending the adoption of the child by the Applicant 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 the maternal aunt of 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 Applicant has been approved as a prospective adoptive parent by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus she is able to effectively handle her parental responsibilities.
15. Accordingly, I allow the Originating Summons and make the following orders:
- i. That the Applicant, E.W.W, is allowed to adopt the child currently identified as Baby C.M;
 - ii. 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;
 - iii. C.K.K is appointed as legal Guardian of the child,
 - iv. The Guardian ad Litem is hereby discharged;
 - v. 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. Caren h/b Mr. Muchirifor the Applicant

