



**In re NO alias NMO (Minor) (Adoption Cause E111 of 2024)
[2024] KEHC 10482 (KLR) (Family) (29 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10482 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E111 OF 2024
H NAMISI, J
AUGUST 29, 2024**

IN THE MATTER OF

**FOO 1ST APPLICANT
MWN 2ND APPLICANT**

JUDGMENT

1. Before this Court is the Originating Summons dated 22nd May 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. (spent);
 - ii. (spent)
 - iii. That the Applicants be authorised to adopt N.O alias N.M.O to be known as N.M.W.O;
 - iv. That the child be presumed to be a Kenyan citizen by birth;
 - v. That the child’s date of birth be 1st October 2014 and the place of birth be Nairobi;
 - vi. That the Registrar General be directed to enter the adoption in the Adopted Children Register;
 - vii. That the Director Immigration be authorised to issue the child with a Kenyan passport;
 - viii. That the 2nd Applicant’s sister, H.W.N, be appointed the legal guardian of the child in the event of the death or incapacity of the Applicants before the child is of age or independent;
 - ix. 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 18th July 2024.



The Child

3. The child (female) was born on 1st October 2014 to the 2nd Applicant and K.O.O. Since birth, she has been in the custody of the 2nd Applicant herein. Her biological father has not been involved in her upbringing. The child recognises the 1st Applicant as her father. She lives with her parents, and siblings aged 6 years and 2 years.

The Applicants

4. The Applicants are Kenyan citizens. They are a married couple, having been married for 9 years. They have 2 children, younger than the child herein. The 1st Applicant is an IT consultant. The 2nd Applicant, the child's biological mother, is an Assistant researcher.
5. The Applicants stated that their motivation to adopt the child is so that they can complete their family and make the child as part of the family. Currently, the child bears a different surname from her siblings. They confirmed that they fully understood the legal implications of an Adoption order and that the same is not reversible.
6. The Applicants presented copies of their payslips, Police Clearance Certificates 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.
7. Additionally, pursuant to section 195 of the *Children Act*, the Applicants provided consent from the 2nd Applicant's sister, H.W.N, agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants.

The Biological Father

8. The biological father, K.O.O, did not appear before the Court but filed a consent to the adoption and relinquishing his rights as the father to the child.

The Adoption Approval Process

9. Change Trust conducted an assessment of the Applicants and sought the consent of the biological parents, as well as members of the extended family. The Agency filed its report dated 29 March 2024 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 xxxx.
10. On 10 June 2024, the Court issued an order appointing L.A.M 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.
11. The Guardian ad Litem filed her report dated 14 June 2024, noting that the Applicants provide a safe, loving and nurturing home for the child. The Directorate of Children's Services, Nairobi County filed its report dated 24 June 2024, recommending the adoption of the child by the Applicants herein.
12. 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 biological mother of the child.
13. 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 they are able to effectively handle their parental responsibilities
14. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
- i. The Applicants, F.O.O and M.W.N, are hereby authorised to adopted the child currently known as N.O alias N.M.O, who will henceforth be known as N.M.W.O;
 - 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 H.W.N is hereby appointed as the legal guardian of the child N.M.W.O.

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. Wangu h/b Ms. Kiguatha.....for the Applicants

