



**In re Adoption of Baby JD alias JW (Child) (Adoption Cause E242 of 2023)  
[2024] KEHC 13921 (KLR) (Family) (16 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 13921 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E242 OF 2023  
BK NJOROGE, J  
AUGUST 16, 2024  
IN THE MATTER OF ADOPTION OF JD ALIAS JW (CHILD)**

**IN THE MATTER OF**

**CMM ..... APPLICANT**

**JUDGMENT**

1. This Judgment is in respect of an Adoption application by the Sole Applicant. It is by way of an Originating Summons dated 30<sup>th</sup> October, 2023. It is supported by the Statement of the Applicant dated 30<sup>th</sup> October, 2023 as well as her Affidavit sworn on 30<sup>th</sup> October, 2023. The Applicant seeks for the following orders;
  - a. That the Applicants, be authorised to adopt Baby JD alias JW to be known as JWN
  - b. That CWM be appointed as the legal guardian to the child in the event of the death or incapacity of the applicant before he is of full age and fully self-reliant.
  - c. That the Registrar General be directed to enter in the Adopted Children Register an entry recording the adoption.
  - d. That the child be presumed to be Kenyan by birth.
  - e. That the Director of Immigration be authorised to issue the child with a Kenyan Passport.
  - f. That the Court be pleased to make any further orders it deems necessary.
2. The Originating Summons is presented to Court pursuant to Article 14(4) of the *Constitution of Kenya*, Sections 183, 184, 185, 186, 187, 194, 200, 201 and 211 of the *Children Act* No. 29 of 2022 and Section 24 of the *Interpretation and General Provisions Act*, Cap 2 of the Laws of Kenya and Section 3A of the *Civil Procedure Act* Chapter 21 the Laws of Kenya.



3. The Sole Applicant is a Kenyan Citizen. She is currently a single lady having never been married. She thus presents this application as a Sole Applicant.

The Applicant is 40 Years old. She works for [Particulars Withheld] as an ICT specialist. She professes the Christian faith. She intends to raise the child in the Christian faith as well as instil Christian moral value.

4. The Sole Applicant does not have any children of her own.
5. A Guardian Ad Litem's Report dated 10<sup>th</sup> March, 2024 has been filed. This is pursuant to Section 188 (2) (b) of the [Children Act](#) Cap 141 of the Laws of Kenya. The Guardian Ad Litem was approved vide an order made on 1<sup>st</sup> February, 2024 before the Court.
6. The Director of Children's Services has also filed a report dated 19<sup>th</sup> February, 2024.
7. The Sole Applicant appeared in Court virtually on 11<sup>th</sup> July, 2024. The Court was able to watch the close bond that she has formed with the Child, the subject matter of these proceedings. The Court listened to the Sole Applicant's evidence and her motivation to get and raise her own child, by way of adoption. She wishes to raise a family. She also wishes to give a home to a less fortunate child. She underwent a major surgery in the year 2022 as a result of which she is unable to conceive normally. She did go through IVF treatment which has not been successful. The adoption process hence fulfils her desire to be a mother.
8. The Court also heard Joshua Mwalimu Wambuaa representative of the Little Angels Network. He confirmed that the adoption meets the statutory process required by an adoption society. The case committee of the adoption society at its sitting held on 31<sup>st</sup> January, 2023 declared the child free for Adoption. A Certificate Declaring a Child Free for Adoption No. 002320 was issued on 31<sup>st</sup> January, 2023. The Certificate is a mandatory requirement of the Law as per Section 184 (1) (b) of the [Children Act](#) Cap 141 of the Laws of Kenya. The Adoption Society supports the adoption.
9. The Court has noted the Statutory Reports filed by the Guardian Ad Litem and the Director of Children Services. They are filed without any reservations to the adoption process.
10. The Sole Applicant has also made provisions for the appointment of the child's Legal Guardian. This is in the case of unforeseen circumstances or their incapacity. She has proposed CWM her own sister. The Guardian also appeared before the Court virtually. She confirmed her consent. The proposal for appointment of a Legal Guardian is in line with Section 195 of the [Children Act](#) Cap 141 of the Laws of Kenya. Equally this proposal serves in the best interest of the child.
11. The Court has noted that the child the subject matter of this adoption was found abandoned at [Particulars Withheld] area of [Particulars Withheld] within the County of Nairobi. She was rescued on 26<sup>th</sup> July, 2022 by some good Samaritans name KMM and NN. She was said to have been abandoned at some veranda. Her date of birth is unknown and is estimated to be 23<sup>rd</sup> July, 2022. The Court has noted that this is the date indicated in her admission forms at Kilimani Home as well as in the Certificate Declaring the Child Free for Adoption. It is therefore presumed that the baby was born within the Kibra area on 23<sup>rd</sup> July, 2022. The Court adopts this as her date and place of birth. The baby was taken to New Life Home Trust on 27<sup>th</sup> July, 2022. The baby was formally committed into the New Life Home Trust through the Children's Court at Nairobi MCP & CCO E519 of 2022 on 5<sup>th</sup> October, 2022. The Court has noted that a Report was made to the Kibra Police Station vide OB No. 14/27/07/2022. The Court has seen the letters from Kibra Police Station dated 1<sup>st</sup> August, 2022 and 10<sup>th</sup> January, 2023. No family or relatives have turned up to claim the child. In the circumstances the Court is satisfied that the child was found abandoned and the natural parent(s) cannot be found.



The consent of the natural parents as required by Section 187(1) of the [Children Act](#) Cap 141 of the Laws of Kenya is dispensed with, pursuant to Section 186 (8) (a) of the [Children Act](#) Cap 141 of the Laws of Kenya.

12. The Sole Applicant received the child into her care on 3<sup>rd</sup> March, 2023. The Court has seen the foster care agreement dated 3<sup>rd</sup> March, 2023 with New Life Home Trust.
13. The Sole Applicant does not have any criminal records. She has obtained a Certificate of Good Conduct No. PCC.KQXXXXXXXXX dated 7<sup>th</sup> April, 2022.
14. There is also issue of the child's nationality. The child was found abandoned in Darajani area of Kibra which is under the County of Nairobi in the Republic of Kenya. Article No. 14(4) of the [Constitution of Kenya](#) states as follows;
  - “(4) A Child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.”
15. The Child has a right to Citizenship. the [Constitution](#) confers the right of Kenya Citizenship, to a child found abandoned within the Kenyan territory.
16. The Court has considered the application before it in its entirety.
17. The Court has also heard all the parties who appeared before it. All the Reports filed and presented support the adoption.
18. The Court finds that it is in the best interests of the child that she gets a stable home where she will be loved, nurtured and allowed to grow to her full potential. In turn she will contribute to the growth of this great Nation as a great citizen of this Country.
19. The Court notes that the Sole Applicant has a strong desire to provide a home to the child. She wishes to settle down and raise the child as her own.
20. The Court notes that the Sole Applicant is aware that if she were to find a life partner for a marriage, the child would be part and parcel of such a relationship.
21. The Court is pleased to grant the Sole Applicant her desire to adopt the child.

### **Determination**

22. The Court grants the prayers sought in the Originating Summons dated 5<sup>th</sup> March, 2024 in the following terms;
  - a. That the Sole Applicant CMM, be and is hereby authorised to adopt Baby JD alias JW to be known as JWN.
  - b. That CWM be and are hereby appointed as the legal guardians to the child in the even of the death or incapacity of the Sole Applicant before the child is of full age and fully self-reliant.
  - c. That the Registrar General be directed to enter in the Adopted Children Register an entry recording the adoption.
  - d. That the child be presumed to be Kenyan by birth pursuant to Article 14(4) of the [Constitution of Kenya](#) and to be entitled to all the benefits accruing by virtue of such citizenship.



- e. That the estimated date of birth of the child be 23<sup>rd</sup> July 2022 and her place of birth be Kibra within the County of Nairobi.
- f. That the Director of Immigration be authorised to issue the child with a Kenyan Passport.
- g. That the Guardian Ad Litem be discharged.

23. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 16<sup>TH</sup> DAY OF AUGUST, 2024.**

**NJOROGE BENJAMIN. K**

**JUDGE**

In the presence of: -

Miss Marion Waithera for the Applicant

Court Assistant - Luyai

