



**In re EHO (Child) (Adoption Cause E028 of 2024)
[2024] KEHC 16808 (KLR) (Children's) (16 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 16808 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CHILDREN'S
ADOPTION CAUSE E028 OF 2024
BM MUSYOKI, J
AUGUST 16, 2024**

IN THE MATTER OF

**CAO 1ST APPLICANT
RNO 2ND APPLICANT**

JUDGMENT

1. The applicants have by originating summons dated 22nd January 2024 prayed for the following orders;
 1. They be authorised to adopt the child; E-HO who is a Kenyan citizen, born on 15th April 2007.
 2. Upon adoption, the child be known as E-HO.
 3. EAO of Kenyan national identity card number 22XXXX36 be appointed as Legal Guardian of the child E-HO.
 4. The Registrar General be directed to enter this adoption into the Register of Adoptions and a subsequent birth certificate do issue by the registrar of births and deaths.

2. The 1st applicant testified that she was a program manager in the [particulars withheld] in Nairobi. She is married to the 2nd applicant and they have four biological children and one adopted. She made reference to her supporting affidavit dated 22nd January 2024. She told the court that she was maternal mother to the child the subject of these proceedings by virtue of the child having been her sister's son. The child's biological mother died on 22nd March 2023 while the father died on 7-03-2008. She added that they started living with the child immediately the mother passed away. She was asking for adoption so that she could take care of him as her own. She stated that she was aware that once the adoption orders were granted, they will be irreversible and the child assumes the rights of her biological child including inhering her.



3. The 2nd applicant who is husband to the 1st applicant testified and echoed the 1st applicant's testimony. He also added that he was aware that the child will become like her biological son with all the rights including the right to inherit him. He was also aware that the orders are irreversible. The applicants separately adopted their joint statement recorded on 22nd January 2024. The applicants exhibited their bank statements and title deeds to prove that they had enough resources to take care and support the child.
4. Kenya Children's Homes Adoption Society carried out the necessary inquiries and verified the information on the child and in its committee meeting held on 18-10-2023, the child was freed for adoption and a certificate declaring the child free for adoption issued on 18-10-2023. The certificate serialised as number 933 was produced by Pauline Mumo Kitema of the said agency when she testified before the court. The society also made conduct and interviewed the applicants and made a conclusion that the applicants were suitable to adopt the child. The report to that effect dated 14-02-2024 was also produced in evidence.
5. The applicants appointed EAO as the Legal Guardian of the child. The said E appeared before me and confirmed that she had accepted the appointment and she was ready to carry out the task. She understood her mandate as a Legal Guardian. She told the court that she was aware that in the event the applicants were not available or were incapacitated, she would assume their responsibilities of taking care and bringing up the child as if he were her own.
6. MKK was appointed as the Guardian *ad litem* by this court on 14-03-2024. She embarked on her duties and made her assessment of the applicants and the child. She said that she interviewed the child and interacted with him and she was satisfied that the child had adapted well in the applicant's family. She prepared her report which was positive and which recommended that the adoption orders be granted. She produced her report dated 9-05-2024.
7. Ezekiel Kimani an Assistant Director of Children Services gave evidence and stated that the department of children services had no objection to the adoption order being granted. He stated that the department had made the necessary enquiries and at the end of it all recommended that the adoption be granted. He produced report dated 29-04-2024 signed by himself.
8. I lastly heard from the child who is 17 years. He told the court that he was in form four at [particulars withheld] Secondary School. He was aware of these proceedings and had given his consent to be adopted. He also asked that the court grants the orders.
9. This is a kinship adoption. The child is being adopted by his aunt and uncle. It is evident that the applicants have been taking care of the child after the demise of his parents. The child was clear that he was aware of the proceedings and had consented to the adoption. The child is old enough to know what he wants and I believe that there is no cause for denial of the adoption orders. All the reports from the relevant authorities recommend that I grant the orders.
10. In the circumstances I allow the originating summons and make the following specific orders;
 1. CAO and RNO are authorised to adopt E-HO.
 2. Upon adoption, the child be known as E-HO.
 3. EAO of Kenyan national identity card number 22XXXX36 is hereby appointed as Legal Guardian of the child.
 4. The Registrar General is hereby directed to enter this adoption into the Register of Adoptions.



5. The Registrar of births and deaths is directed to issue a birth certificate to the child with date of birth as 15th April 2007.
6. The Guardian *ad litem* is discharged

DATED SIGNED AND DELIVERED AT NAIROBI THIS 16TH DAY OF AUGUST 2024.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

Judgment delivered in the presence of Mr. Haggai holding brief for Miss Ann Githogori for the applicant.

