



**In re LF (Child) (Adoption Cause E071 of 2024)  
[2024] KEHC 13917 (KLR) (Family) (16 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 13917 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E071 OF 2024**

**BK NJOROGE, J**

**AUGUST 16, 2024**

**IN THE MATTER OF ADOPTION**

**BY**

**BABY LF ..... THE**

**CHILD**

**IN THE MATTER OF**

**MWK ..... 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 22<sup>nd</sup> March, 2024. It is supported by the Statement of the Sole Applicant dated 22<sup>nd</sup> March, 2024 as well as her Affidavit sworn the same date. The Sole Applicant seeks for the following orders.
  - a. That the Applicants, be authorised to adopt Baby LF to be known as LCK.
  - b. That DKK and PK be appointed as the legal guardians 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, Section 24 of the *Interpretation and General Provisions Act*, Chapter 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 52 years old. She is self-employed and is engaged in selling clothes. She owns a Boutique in Kitengela. She has a biological daughter aged 14 years named MW she wishes to expand her family and give her biological daughter a sibling.
4. A Guardian Ad Litem's Report dated 1<sup>st</sup> July, 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 16<sup>th</sup> May, 2024 before the Court.
5. The Director of Children's Services has also filed a report dated 14<sup>th</sup> June, 2024.
6. The Sole Applicant appeared in Court virtually on 18<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 a child, by way of adoption. She wishes to expand her family. She already has a teenage daughter. The boy child will provide the daughter with a sibling. Her medical reports indicate that she is menopausal and hence she is unable to conceive normally. The adoption process hence fulfils here desire to be a mother.
7. The Court also heard Peris Wanjiku Kahara a representative of the Buckner Adoption Services. She 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 23<sup>rd</sup> June, 2023 declared the child free for Adoption. a Certificate Declaring a Child Free for Adoption No. 00653 was issued on 23<sup>rd</sup> June, 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.
8. The Court has noted the Statutory Reports filed by the Guardian Ad Litem and the Director of Children Services. They ae filed without any reservations to the adoption process.
9. The Sole Applicant has also made provisions for the appointment of the child's Legal Guardian. This is in the case of unforeseen circumstance or their incapacity. She has proposed DKK and PK who are her own brother and sister-in-law respectively. The Guardians also appeared before the Court virtually. They confirmed their consents. The proposal for appointment of Legal Guardians 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.
10. The Court has noted that the child the subject matter of this adoption was found abandoned at Kinoo Village, Mutate Sub-Location, Mutate Location, Kenya. He was rescued on 23<sup>rd</sup> August, 2021 at about 9.00 a.m. by one Mary Muthoni Ithongo. The baby was found within a maize plantation.  
  
The matter was reported to the Area Chief who requested the good Samaritan to offer shelter and accommodate the child for the night. A report was made to Nembu Police Post on 25<sup>th</sup> August, 2021 being OB NO. 06/25/08/2021.  
  
A report was also made to the Gatundu Sub-County Children Officer. The child was later taken to the Gatundu Level 5 Hospital and admitted at the New Born Unit. The Child has a birth certificate serial number 6340039 dated 18<sup>th</sup> February, 2022. His date of birth is indicated as 13<sup>th</sup> August, 2021 and his



place of birth as Gatundu. His parents are indicated as unknown. It is therefore presumed that the baby was born within the date and place indicated in the birth certificate. The Court adopts this as the date and place of birth. The baby was taken to New Life Home Trust, Nyeri on 13<sup>th</sup> September, 2021. The baby was formally committed into the New Life Home Trust, Nyeri through the Children's Court at Gatundu MCP & CCO E009 OF 2023 on 6<sup>th</sup> March, 2023. The Court has noted that a Report was made to the Kiganjo Police Station who by a letter dated 14<sup>th</sup> June, 2023 confirmed that no parents, family or relatives have come to ask or to claim the child. In the circumstance, 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.

11. The Sole Applicant received the child into her care on 4<sup>th</sup> August, 2023. The Court has seen the foster care agreement of the same date with New Life Home Trust, Nyeri.
12. The Sole Applicant does not have any criminal records. She has obtained a Certificate of Good Conduct No. PCC.OLTQQ3E dated 23<sup>rd</sup> April, 2022.
13. There is also issue of the child's nationality. The child was found abandoned in Kinoo Village, Mutate Sub-Location, Mutate Location, Gatundu Sub-County which falls within the County of Kiambu 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.”
14. The Child has a right to Citizenship. *The Constitution* confers the right of Kenya Citizenship, to a child found abandoned within the Kenyan territory.
15. The Child will also require a post adoption birth certificate. The same was not specifically sought for, it will become necessary to enable the child access some benefits like medical insurances, an Identity card, passport etc. It is in the best interests of the child.
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 he gets a stable home where he will be loved, nurtured and allowed to grow to his full potential. In turn he 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 raise the child as her own alongside her 14 years old daughter.
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 22<sup>nd</sup> March, 2024 in the following terms;



- a. That the Sole Applicant MWK be and is hereby authorised to adopt Baby LF to be known as LCK.
- b. That DKK and PK be and are hereby appointed as the legal guardians to the child in the event 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 and is hereby 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 a post adoption birth certificate be issued to the child indicating the Sole Applicant MWK as the mother.
- f. That the Director of Immigration be and is hereby authorised to issue the child with a Kenyan Passport.
- g. That the Guardian Ad Litem be and is hereby 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

