



In re baby DU alias Baby D alias Unknown Baby A Unknown (Adoption Cause E204 of 2023) [2024] KEHC 10250 (KLR) (Family) (13 August 2024) (Judgment)

Neutral citation: [2024] KEHC 10250 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E204 OF 2023
BM MUSYOKI, J
AUGUST 13, 2024
IN THE MATTER OF BABY DU ALIAS BABY D
ALIAS UNKNOWN BABY ALIA UNKNOWN**

IN THE MATTER OF

**MKM 1ST APPLICANT
LHRM 2ND APPLICANT**

JUDGMENT

- 1 In the second day of his sojourn in this world, the child herein was abandoned on the roadside in Ruaka area of Kiambu County. The grace and mercy of God led men and women of good will to the child, who then picked the young soul and reported the matter at Ruaka police post vide occurrence book entry number 6/13/5/2022. The child was taken to Nazareth Hospital for medical checkup and through the police, he was temporarily placed in Limuru Children’s Centre.
- 2 On 18-05-2022, the Limuru Chief Magistrate’s Court was made aware of the unfortunate event and through its children protection and care cause number E014 of 2022 issued an order committing the child to Limuru Children’s Centre for a period of six months. This was procedural to give the relevant authorities time to trace the parents or relatives of the child. The efforts of tracing the said relatives were in vain within the six months and on 14-12-2022 the court re-committed the child to the same Centre for a further period of three years. No one came out to claim the child neither did the authorities manage to trace his relatives.
- 3 Kenya Children’s Homes Adoption Society carried out investigations, evaluations and enquiries on the child and on 15-02-2023 its committee declared the child free for adoption. They issued a certificate to that effect serialized as number 883 dated 15-02-2023. Miss Pauline Kitema of the said adoption society testified before this court and produced the report of the committee and the certificate aforesaid.



- 4 On 25-04-2022, the applicants approached the aforesaid adoption home with an intention and desire to be ratified for placement with a child aged below one year with a view to eventually adopt. They were assessed by the said home and taken through the process of adoption. Upon assessment, they were found to be fit to be adoptive parents. The report on the same dated 27-10-2023 was produced in court by the aforesaid Pauline Kitema. The report concludes that the proposed adoption will be in the child's best interest. Subsequently the child was placed with the applicant on 23-03-2023. The applicants have now brought the originating summons dated 12-10-2023 seeking to adopt the child.
- 5 The applicants who have been married for the last eight years testified separately and adopted their joint statement and affidavit dated 12-10-2023. They told me that they had been with the child for over a year as at the time of the hearing. They confirmed that they were aware of the ramifications of an adoption order especially that the same was irreversible and the child attains the right of a biological child including the right to inherit them. The applicants also showed evidence in form of bank statements and title deeds, that they had enough resources to take care of the child. They also confirmed that they had appointed a Legal Guardian of the child and prayed that the court allows them to adopt.
- 6 The applicants called RMM who is their aunt as a witness. They had appointed her as the Legal Guardian of the child. The said Ruth told the court that she was in cereals business and she had accepted the appointment as Legal Guardian. She confirmed that she was aware that her duty entailed stepping into the shoes of the applicants in the event that the applicants will not be capable or available to offer parental duties to the child. She stated that she had agreed with her husband that they be joint Legal Guardians of the child. I have seen a joint affidavit of PMK and RMM sworn on 12-10-2023 which appears on page 44 of the originating summons. The said affidavit states that the two had accepted to be Legal Guardians of the child.
- 7 There is a report from the Department of Children Services. The report which is dated 19-12-2023 is prepared and executed by Ruth Boke Gikaro, a Children Officer and Mary Atati an Assistant Director Children Services. The report is positive and recommends that the applicants be granted the adoption orders they are seeking in this matter. The report was produced in court by Harriet Kihara a Principal Children Officer attached at milimani children's court.
- 8 On 2-11-2023, Aliso Odinyo was appointed by this court as Guardian Ad Litem. He testified before the court and said that upon his appointment, he embarked on assessing the applicants and the child. He stated that he visited the applicant's home on several occasions and upon his assessment, he found them to be suitable to adopt the child. He stated that the child was well taken care of and he had fitted well to the family. The guardian said that he knew the couple for long.
- 9 Going by the evidence produced before me as narrated above, I am convinced that the child is in good hands. He was abandoned at a very frail age. He is now slightly over two years. The only parents known to him are the applicants. It will not be in his interest to live without a formal family set up. It is his best interests and welfare that is of paramount consideration and I find that he will be best of with an adopted family as prayed.
- 10 In the circumstances, I allow the originating summons dated 12th October 2023 and make the following orders;
1. ZKM and LHRM are hereby authorized to adopt Baby DU alias Baby D alias Unknown Baby alias Unknown.
 2. The child shall henceforth be named as DB.



3. The child is declared to be a Kenyan citizen by birth and entitled to all rights, privileges and benefits of a Kenyan Citizen by birth.
4. The child's date of birth is declared to be 29th January 2022 at Ruaka Kiambu County.
5. PMK and RMM are hereby appointed as the Legal Guardian of the child.
6. The Guardian Ad Litem is discharged.
7. The Registrar General is directed to enter this adoption in the Adopted Children Register.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF AUGUST 2024.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT

Judgement delivered in presence of Miss Wairimu holding brief for Miss Kiguatha for the applicants.

