



**In re Baby JP (Adoption Cause E061 of 2024)
[2024] KEHC 10223 (KLR) (Family) (13 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10223 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E061 OF 2024
BM MUSYOKI, J
AUGUST 13, 2024**

**IN THE MATTER OF
MIRIAM WANJIRU KARIUKI APPLICANT**

JUDGMENT

1. By an originating summons dated 15th March 2024, the applicant herein has asked the court to grant her the following orders;
 1. That the applicant be authorized to adopt Baby JP a child who is to be known as JMK and the Registrar General be directed to enter this adoption into the register of Adoptions.
 2. That MW be appointed as the Legal Guardian of the child.
 3. That the child be presumed to be born in Kenya.
2. In her desire to adopt a child, the applicant submitted herself for assessment on her suitability to Change Trust a registered adoption body on 19-02-2015. She was interviewed the same day. Change Trust visited her home and conducted interviews. She was successfully assessed and found to be suitable as an adoptive parent.

The applicant was once married but divorced on 26-04-2023. She has two other biological children. The report by Change Trust shows that her motivation for adoption is that the baby has already settled in her family. The child, had been placed with her and her previous husband but they divorced before their intended adoption could go through. The applicant is now 45 years whereas the child herein is 7 years. Change Trust found the applicant suitable to adopt the child herein vide their report dated 28-02-2024.

The child was born on 18-09-2017 at Kenyatta National Hospital to one JN who was registered as inpatient number xxxxxx. After she gave birth, the mother abandoned the child at the hospital prompting the administration to report the matter at Kenyatta Hospital police post through



occurrence book entry number 35/19/09/2017. The incident was also reported to the City of Nairobi County children office which arranged for the child to be accommodated at House of Charity Children's Home on 7-11-2017.

3. On 21-03-2018, the children court at Nairobi committed the child to the same children's home through its protection and care cause number 75 of 2018. The police and the other responsible authorities were unable to trace the mother or relatives of the child culminating to a final letter by the police which recommended that a further assistance to the child be considered according to the law.

Change Trust carried out inquiries and confirmed the position and status of the child and proceeded to declare him free for adoption as per their certificate number xxxxx dated 12-04-2018. The report and the certificate were produced in court by Lizzie Mbogo Agala a social worker with the Trust.

4. The child was placed with the applicant and her former husband on 27-04-2018. Since then, the applicant has been living with the child. Her former husband and herself had intended to adopt the child but they divorced before the adoption process could be completed. The applicant now intends to have the child as her own since she has bonded and blended well with her other children. The applicant testified that she understands the ramifications of an adoption order. She told the court that she understood that once an adoption order is issued, it is not reversible and that the child gets the right as those of her other biological children including the right to inherit her.

The Guardian Ad Litem in this matter was one Hopkins Ochieng Okeyo who was appointed by the court on 16-05-2024. He appeared in court and testified that after the appointment, he visited the home of the applicant and did investigations on the child and the environment. Her opinion was that the child was well taken care of. He came up with a report which was positive. He produced the report which is dated 5-06-2024.

5. The applicant appointed MWK and ACR to be the Legal Guardians of the child. The said MWK and ACR told the court that they had accepted the appointment and signed a consent to that effect dated 15-03-2024. I have seen the consent which appears as part of the court record. The two confirmed that they were aware of their roles as Legal Guardians especially that they will be expected to step into the shoes of the applicant in the event the applicant will be unavailable or incapable of discharging her parental responsibilities. They were ready and willing to take up this role. Although the prayers of the originating summons do not include ACR, I am convinced that the applicant had intention of having him as a Legal Guardian.

I also heard from one Ezekiel Kimani an Assistant Director of children services working with the Department of Children Services. He stated that the applicant and the child were assessed by the department. He added that the department had no issues with the application for adoption and recommended that the same be allowed. He produced report from the department dated 20-03-2024 which is signed by himself and counter-signed by Mary Atati a County Coordinator of Children's Services.

6. I have read through the originating summons, the applicant's supporting affidavit and statement dated 15-03-2024 and the documents annexed to the said affidavit. I have also gone through the reports produced in court by the department of children services, the Change Trust, the Guardian Ad Litem and the children's home. The said reports are all positive and recommend that this court issues the adoption orders. I have also considered the oral evidence adduced before me.

This is a matter concerning a child and by virtue of Article 53(2) of the *Constitution* and Section 8 of the *Children Act*, the best interest of the child is the paramount point of consideration which should guide me in making my decision in this matter. I have noted that the child was abandoned by her biological mother a day after she was born. She was placed in a children's home at that tender age and later placed



with the applicant at the age of seven months. At this age, a child starts to appreciate those who are around her and becomes aware of their relationships. The child herein has never seen her biological mother and has never known any other family apart from the applicant. The applicant has given the child a lifeline of growing in a formal family.

7. It is my opinion that based on the above, that the best interest of the child will be served by allowing this adoption. In view of this, I am minded in allowing the originating summons and in doing so, I make the following orders;
 1. MWK is authorised to adopt Baby JP.
 2. The child's name shall henceforth be JMK.
 3. MWK and ACR are appointed as the Legal Guardians of the child.
 4. 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.
 5. The Guardian Ad Litem is discharged.
 6. The Registrar General is directed to enter this adoption in the register of adoptions.

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 Kemunto for the applicant.

