



**In re Baby RWG (Adoption Cause E161 of 2023)
[2024] KEHC 16826 (KLR) (Family) (12 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 16826 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E161 OF 2023
BM MUSYOKI, J
AUGUST 12, 2024
IN THE MATTER OF THE CHILDREN’S ACT 2022
AND
IN THE MATTER OF BABY RWG
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY
CWG**

**IN THE MATTER OF
CWG APPLICANT**

JUDGMENT

1. The applicant, CWG has through an originating summons dated 22-08-2023 prayed for the following orders.
 - a. That LGK be appointed as Guardian Ad Litem of RWG.
 - b. That the applicant CWG be authorised to adopt RWG.
 - c. That upon adoption, the child be named as MLWG.
 - d. That RJNT be appointed as the Legal Guardian of the child.
 - e. That the Registrar General be directed to enter this adoption into the register of adoptions.



- f. That the child shall be presumed to be a Kenyan citizen and be accorded all rights of immigration that accrue to Kenyan citizens.
 - g. That the Director of Immigration Services do issue the child MLWG a Kenyan Passport upon application.
2. The child herein was found abandoned on 3rd June 2022 at around 5.40 pm in Nyeri outside a shop by the shop's customer who heard the baby crying wrapped with a baby shawl. An elder known as Peter Kanyora reported the incident to police officers who went and picked the child and took her to Nyeri County Referral Hospital for observation and treatment. The incident was booked in the police station under occurrence book entry number 18/3/6/2022.
 3. On June 16th 2022, the Nyeri Children's court issued a committal order to New Life Home Trust vide its care and protection cause number E065 of 2022. For eight months, no one showed up to claim the child provoking the police to issue a letter to that effect. On 1-03-2023, Little Angels Network, an adoption agency declared the child free for adoption vide its certificate number 002337.
 4. The child was placed under the care of the applicant on 17-03-2023 by New Life Home Trust. The applicant was evaluated and assessed by Little Angels Network and found to be suitable to adopt a child. The report to that effect dated 1-03-2023 was filed in this court. The applicant told the court that she understood the effect of an adoption order and that it is not reversible once it has been issued. She also understood that the child will have all the rights available for a biological child including inheriting her. The applicant is 49 years, not married and has no biological children. She told the court that her motivation to adopt was to have a family and give the child a home. She stated that the child had bonded well with her family and she described her as a miracle in her life. The child is now two years and she had lived with her for 15 months.
 5. In addition to the applicant, the court heard 4 other witnesses. Among these was LGK who was on 29-01-2024 appointed by this court as the Guardian Ad Litem. She told the court that on 9-03-2024, she visited the applicant and undertook assessment as required by the law. Her verdict was that the child had bonded well with the applicant and other family members including the applicant's parents, nephews and nieces. She recommended the adoption.
 6. RJNT told the court that she was the proposed Legal Guardian and that she understood that she has the responsibility of taking care of the child as her parent in case the applicant would be unable or unavailable to discharge her duties. She consented to the proposal. I have also seen the consent she signed on 26-04-2021 which appears on page 64 of the originating summons.
 7. I also heard from Ezekiel Kimani an Assistant Director of Children Services who told me that his department had done its background checks and investigations and found the applicable suitable to adopt the child. He produced a report dated 8-04-2024 signed by himself and Mary Atati. The report had a positive recommendation that the applicant was suitable.
 8. I have gone through the documents filed herein in support of the originating summons. I have also taken note that the reports from the adoption agency, the department of children services and the Guardian Ad Litem are in support of the granting of the adoption orders. The child has bonded well with the applicant and she is qualified under the law to adopt the child.
 9. In consideration of the provisions of Article 53(2) of *the Constitution* and Section 8 of the *Children Act*, the court is obligated to take the best interest of the child as the paramount guiding principle whenever it is dealing with issues touching on children.



10. The applicant has been taking good care of the child since the time she was placed under her care. She is capable of providing for the needs and welfare of the child. In case of her inability or absence, there is someone who has also committed to step in her shoes and who is also capable of discharging parental responsibilities.
11. In view of the above, it is my considered view that it will serve the best interest of the child if the originating summons is allowed. In the circumstances, I allow the originating summons dated 22-08-2023 and make the following orders;
 - a. The applicant CWG is hereby authorised to adopt RWG.
 - b. The child shall henceforth be named as MLWG.
 - c. RJNT is appointed as the Legal Guardian of the child.
 - d. The child is presumed to be a Kenyan citizen by birth and shall have all the rights, benefits and privileges which by law accrue to a Kenyan citizen by birth.
 - e. The Registrar General is hereby directed to enter this adoption into the register of adoptions.
 - f. The Guardian Ad Litem is hereby discharged.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 12TH DAY OF AUGUST 2024.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

Judgement delivered in presence of Miss Tole for the applicant.

