



**In re PH alias Baby F (Adoption Cause E122 of 2023)
[2024] KEHC 16825 (KLR) (Family) (12 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 16825 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E122 OF 2023
BM MUSYOKI, J
AUGUST 12, 2024
IN THE MATTER OF PH ALIAS BABY F
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

IN THE MATTER OF

**JUSTUS GITONGA 1ST APPLICANT
FRIDAH WANJA MBAE 2ND APPLICANT**

JUDGMENT

1. The applicants approached the court vide originating summons dated 27-06-2023. The originating summons is supported by affidavit of the applicants sworn on the same day in addition to their statement dated the same day. The mater proceeded before me on 4-07-2024 with the applicants calling 7 witnesses.
2. The child whose these proceedings relate was found abandoned by his mother in late January 2019 at Ngando area. The mother left the child with HM to hold for her as she went to shift some household goods but she never came back for the child. After a month with the child, the said Hellen reported the issue at Riruta police station vide occurrence book entry number 38/20/03/2019. On 24th July 2019, the Dagoreti sub-County children office wrote to court which led to opening of Milimani Children’s Court care and protection cause number 1069 of 2019.
3. Despite several advertisements in the media calling for the child’s mother to come out, the mother or any other relative of the child never showed up. The child was admitted to Hope House Babies Home on 23-03-2019 and formally committed to the same institution on 21-08-2019.



4. The child was declared free for adoption by Buckner Kenya Adopting Services on 25-02-2022 vide certificate number 0533. The same institution assessed the applicants and was satisfied that the applicants were suitable to adopt a child.
5. The Guardian Ad Litem in this matter was appointed by the court on 27-07-2023. The applicants testified that they were evaluated by the above mentioned adoption agency and also subjected to investigations by the Guardian Ad Litem one BWG. She prepared her report dated 17-04-2024 in which she recommended that an adoption order be granted to the applicants.
6. By report dated 28-11-2023 prepared and signed by CO and MA, the Department of Children Services recommended that the applicants be allowed to adopt the child. The report was produced in court by Ezekiel Kimani an Assistant Director of Children Services.
7. The applicants told the court that they had appointed one Genson Kinyua and Mary Kageni Kabae as the child's legal guardians. The two proposed legal guardians testified before me on 4-07-2024 and confirmed that they had consented to become legal guardians of the child. However, while I was writing this judgement, I discovered that in their affidavits appearing on pages 71 to 74 of the bundle of the originating summons, the two deponed that they were consenting to appointment as Guardians Ad Litem. I however take this to be a typographical error because the said guardians testified before me on oath that their intentions were to be appointed as legal guardians. They confirmed to me that they understood the effect of such an appointment. They confirmed under oath that they were ready to take up responsibilities of the applicants if for any reason, the applicants are not able or available to discharge their parental responsibilities.
8. The applicants are a husband and wife. The child was placed under their custody and care on 15-06-2022. All the reports are in concurrence that the mother of the child cannot be traced. The applicants now plead that an adoption order be issued in their favour. They are also emphatic that they have the capacity and ability to take up parental responsibilities. The age gap between the applicants and the child is 49 years which is within the limits allowed by the law.
9. Based on the evidence adduced before me, I am in agreement with all reports filed by the agencies and the department of children services whose verdicts are that the applicants are suitable for adoption. I have formed opinion that it will be in the interest of the child that he gets adopted by the applicants. I should have no doubts as to the suitability and need for the child to have a home.
10. I consequently make the following orders;
 1. The applicants JG and FWM are hereby allowed to adopt Peter Hope alias Baby Favour.
 2. The child shall be henceforth be renamed Peter Hope.
 3. The Registrar General is hereby directed to enter in the Adopted Children Register an entry recording the adoption herein.
 4. The child is presumed to be a Kenya Citizen by birth.
 5. The Registrar General is directed to issue the Baby with a birth certificate in the name indicated in order 2 above.
 6. The Guardian Ad Litem is discharged.

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

B.M. MUSYOKI



JUDGE OF THE HIGH COURT .

Judgment delivered in absence of the Counsel for the applicants.

