



**In re Baby FA (Adoption Cause E200 of 2023)
[2024] KEHC 16820 (KLR) (Family) (12 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 16820 (KLR)

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

FAMILY

ADOPTION CAUSE E200 OF 2023

BM MUSYOKI, J

AUGUST 12, 2024

IN THE MATTER OF BABY FAJW

IN THE MATTER OF

JWN APPLICANT

JUDGMENT

1. Baby FA was found by a good Samaritan one MW abandoned at Githurai 45 in Nairobi on 14-06-2013. He was barely a month old. M reported the incident at Githurai Kimbo police station through occurrence book entry number 13/14/06/2013. The police in turn wrote a letter dated 14-06-2013 to a children's home known as Mercy Children's Home with a request that the home takes custody of the baby as the police did their investigations. However, the said home did not have facilities for such small babies and for that reason, the children officer from Ruiru Sub County Children Office requested Angel Centre for Abandoned Children to accept and keep the child.
2. The child was admitted at Angel Centre for Abandoned Children on 14-06-2013. On 16-09-2013, the child was committed to this home through a court warrant issued in Thika Chief Magistrate protection and care cause number E256 of 2013. Thereafter, advertisements were placed in daily newspapers inviting people who knew the child among others to come out, identify and claim the children. The advertisement was unresponsive in respect of the child herein. In the meantime, the police were unable to trace the relatives of the child and on 25-11-2014, they wrote to the children's home that effect.
3. Change Trust is an adoption Agency. Following the failure by the police to find the relatives of the child, the agency proceeded with the procedure provided by the law. The agency conducted assessment and evaluation and on 19-07-2022, it vide certificate number 0526 declared the child herein free for adoption. The certificate together with report of the said agency dated 19-07-2022 were produced in court by the applicant. Prior to the child's freedom for adoption, the applicant had been assessed and investigated by the same agency and its committee sitting on 21-11-2018 approved her as suitable



- adopting parent. The report of the committee signed by Aveline W. Karuku and Muteru Njama was produced in court.
4. The applicant testified before me on 20-06-2024 and prayed that I allow the originating summons dated 16-10-2023. She adopted her statement dated 16-10-2023. She added that the child came into her custody on 9-12-2022 and since then, she has been taking care of him. She confirmed on oath that she understood the effect of an adoption order especially that it is not reversible and the child will have all the rights of a biological child including inheriting her. She also said that her family had consented to her adopting the child.
 5. I also heard from PMS the Guardian *ad litem* who was appointed by the court on 29-02-2024. He confirmed that she carried out her mandate by visiting the applicant's home where she interviewed her, the child and other family members. Upon her evaluation, she formed an opinion that the applicant was suitable to adopt the child. She compiled a report to that effect dated 8-05-2024 which she produced in court.
 6. The court also received a report from the Department of Children Services which was produced by Mr. Ezekiel Kimani, an Assistant Director of children services. The report which was positive is dated 3-05-2024. The report shows that the department did its investigations and found the applicant suitable to adopt the child. It is signed by Winfred Ikinya and M Atati.
 7. The child is eleven years old and was in court during the hearing. The court engaged him on the matter and he confirmed that he was living with the applicant and was aware of the nature of the proceedings. He added that he was in grade five at [Particulars withheld] School in Embakasi. He told the court that he had consented to the adoption and he was comfortable with the court granting the adoption order.
 8. LWN appeared before me and confirmed that she had been appointed as the Legal Guardian of the child and she had consented to the same. Her signed consent dated 16-10-2023 was produced. L told me that she understood the role and responsibilities of a Legal Guardian. She was aware that in case the applicant was no able or available to discharge her responsibilities as a parent, she (L) would step in and discharge those responsibilities.
 9. I have made consideration to the evidence produced before me as reproduced above. I have also gone through the reports by the adoption agency, the department of children services and the Guardian *ad litem*. I have also made reference to the documents produced in support of the originating summons. The purpose of adoption proceedings is to ensure that the exercise of adoption has followed the process and procedures provided by the law. The main aim is to ensure that the best interests of the child are not compromised and they are taken care of.
 10. This is a matter which concerns a child and by virtue of Section 8 of the *Children Act* and Article 53(2) of the *Constitution*, the best interest and the welfare of the child are the paramount point of consideration. I had the opportunity to talk to the child and observe his demeanour. He appeared happy and comfortable with the adoption order being given. His evidence was corroborative of the reports filed by the agencies mentioned above. I therefore have no doubt that granting of adoption order in these proceedings will serve and promote the best interest of the child.
 11. Consequently, I allow the originating summons dated 16-10-2023 and make the following orders;
 1. The applicant Jecinta Wangare Ngugi is hereby authorised to adopt Baby FA.
 2. The child shall henceforth be named FNW.
 3. The Registrar General is directed to enter this adoption in the adoption register.



4. The child is declared to be a Kenyan Citizen with all rights and privileges of a Kenyan citizen.
5. LWN is appointed the Legal Guardian of the child.
6. 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.

Judgment delivered in presence of Miss Ambaka for the applicant.

