



**In re BDU aka DU (Baby) (Adoption Cause E137 of 2023)
[2024] KEHC 11297 (KLR) (Family) (26 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 11297 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E137 OF 2023
CJ KENDAGOR, J
SEPTEMBER 26, 2024
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY BDU A.K.A DU
IN THE MATTER OF
JWN APPLICANT**

JUDGMENT

1. Before this Court is the Originating Summons dated 3rd July, 2023 where the Applicant seeks the following orders: -
 - a. That VWK be appointed as guardian ad litem.
 - b. That the Director- Children's Department investigates the applicant's fitness to adopt and file a report.
 - c. That the applicant JWN be authorized to adopt BDU to be known as DU.
 - d. That GWU be appointed as legal guardian of the child.
 - e. That the Registrar-General be ordered to enter the child's name in the Adoption Register.
 - f. That the child be presumed a Kenyan Citizen by birth;
 - g. That the court be pleased to make any further orders it deems necessary.
2. The Summons is supported by a statement and an affidavit by the Applicant of even date. The Court, vide its Ruling dated 21st September, 2023, directed that the Children's Department do investigations and file a report. A report has been duly filed in Court, dated 16th February, 2024. The Court appointed



a Guardian ad Litem to investigate and file a report. VWK, the Guardian ad Litem, has also filed a report dated 13th December, 2023.

3. A good Samaritan found “The Minor” abandoned at [particulars withheld] Stage within [particulars withheld] Sub-County in Nairobi County and taken to [particulars withheld] Police Station. The matter was reported at the police station under OB No. XX/XX/XX/20XX. The gender officer at the station sought a vacancy at [particulars withheld] Home Trust, where the child was admitted for care and protection. The Trust later committed the child to the applicant's care on 3rd July 2022, and she has had care and custody of the child ever since.
4. The Applicant is a Kenyan Citizen. She is single and has never ventured into marriage. After her education and training, the Applicant worked with [particulars withheld] in 2004, and from then, she has worked as a [particulars withheld] at [particulars withheld], Nairobi. She has no biological children of her own; however, she did adopt a child in the year 2013. According to the documents produced in Court, she is financially capable and perfectly willing to assume the responsibility of bringing up the Minor. She attached copies of her bank statements to showcase her financial well-being.
5. The Declaration Report by the Adoption Society reveals that the Applicant has never been arrested and/or convicted of any criminal offence. All the information presented to me demonstrates that the Applicant is an emotionally and financially stable individual who is fit to take on parental responsibility for the minor.
6. The Applicant was investigated by the Kenya Children's Home Declaration Report was annexed.
7. The report by the Guardian ad litem and the Director of Children Services was duly filed. They are all in agreement that they are favorable to the Applicant and highly recommend the adoption.
8. The minor has been in the care and protection of the Applicants since July, 2020. The Reports annexed indicate that the child has bonded very well with the Applicant and his prospective sister and that the minor identifies her as her mother.
9. The Applicant wishes to have GWN, her sister, appointed as the Legal Guardian of the minor. She appeared before the court and confirmed that she had consented to this appointment.
10. The Applicant, the Guardian ad litem and the Legal Guardian appeared before me and satisfactorily answered questions posed by the Court.
11. PW5, JWM, an Adoption Program officer at The KKPI Adoption Society, appeared before court on 18th January, 2024 and stated that they had declared the applicant fit after the child was declared free for adoption by the [particulars withheld] Agency, Vide Certificate No.[particulars withheld]. They conducted the necessary follow-ups and were satisfied and recommended the adoption.
12. The primary consideration in an Adoption Application is whether the Applicants have fulfilled all the pre-requisites to be granted the Adoption Orders. These are mainly found in Sections 183 and 184 of the *Children Act*, 2022. I have now carefully read all the documents filed in the case. I have confirmed that all the reports and consents needed are on file.
13. The biological parents are certifiably unknown, and their consent is hereby waived. The consents of the proposed Guardian and the Applicant are on record.
14. I have also read the report filed by the County Coordinator of Children Services and the reports by the Guardian Ad Litem and the Adoption Society. All reports are unanimous that it will be in the minor's best interests for the Court to grant the Adoption Orders. I see no reason to dissent from those views. I am satisfied that the Applicant meets all the attributes required of Applicants in Section 158 of the



Children Act, 2022. I am also satisfied that the Applicant understands the consequences and import of Adoption Orders. Finally, I am satisfied that it is in the minor's best interests for the Adoption Orders to be given.

15. Having perused all the documents and considered all the evidence, I am persuaded that the Applicant is fit as an adoptive parent who will provide a suitable home and parentage for the minor herein.
16. Consequently, I allow the Originating Summons and grant the following prayers:-
 - a. That the applicant JWN is authorized to adopt the minor, DU.
 - b. That the minor BDU shall be known as DU henceforth.
 - c. That the consent of the child's biological parents is hereby dispensed with.
 - d. That DU be and is hereby presumed to be a Kenyan citizen, having been found in Kenya at the time of his birth.
 - e. That the Registrar-General do make appropriate entries in the adopted children's register in respect of the minor, DU.
 - f. That GWN be and is hereby appointed the Legal Guardian to the minor herein.
 - g. That the Guardian ad Litem is discharged.

Orders accordingly.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 26TH SEPTEMBER, 2024.

C. KENDAGOR

JUDGE

Court Assistant: Beryl

No appearance for Applicant

