



**In re Baby NK aka GK (Child) (Adoption Cause E009 of 2024)  
[2024] KEHC 16259 (KLR) (18 December 2024) (Judgment)**

Neutral citation: [2024] KEHC 16259 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
ADOPTION CAUSE E009 OF 2024  
MW MUIGAI, J  
DECEMBER 18, 2024  
IN THE MATTER OF CHILDREN ACT 2022  
AND  
IN THE MATTER OF BABY NJ A.K.A GK(CHILD)**

**IN THE MATTER OF**

**NMM ..... 1<sup>ST</sup> APPLICANT  
EMM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The Applicants herein, NMM – ID. Number 20XXXXXX63 and EMM ID. Number 1XXXXXXX8 (“the Applicants”) sought by their application to be allowed by this Court to adopt NJ a.k.a GK (CHILD) (hereafter “the child”).
2. *Vide* Originating Summons application dated 25<sup>th</sup> April, 2024 the Applicants sought among other orders; that the Applicants herein NMM and EMM be authorized to adopt BABY NJ a.k.a GK; that henceforth, the child be renamed as EM; that BTM of ID. Number 3XXXXXXX7 and FKM of ID. Number 3XXXXXXX1 be appointed as the Legal Guardians of the child upon the granting of the Adoption Order; that the child’s date and place of birth be declared to be 7<sup>th</sup> July, 2020 in Machakos County; that the child be presumed to be a Kenyan citizen by birth; and consequently, be entitled to all the rights and benefits in respect thereof; The Applicants herein further sought orders; that MMM of ID No. 22XXXXX40 be appointed as the Guardian Ad Litem for BABY NJ a.k.a GK and that this Court directs the Director of Children’s Services Machakos to investigate the Applicants’ fitness to adopt or otherwise and file a report in respect thereof. MMM of ID No. 22XXXXX40 was appointed as the Guardian Ad Litem on 8/07/2024.
3. The minor herein (NJ a.k.a GK) the subject of the present adoption proceedings was alleged to have been abandoned at Machakos level 5 Hospital by his mother GK on 8<sup>th</sup> July, 2020. The said GK



(mother of the minor) had been referred at the facility from Athi River Health Centre for further management at the new born unit (N.B.U) The plight of the minor was reported to Machakos Sub-County Children Office by the Medical Superintendent Machakos level 5 Hospital but efforts to reach her have been futile. The abandonment was reported at Machakos Police Station *vide* OB No.23/28/7/2020. The child was admitted at the Village of Home Children's Home Children's Home on 11/08/2020. On the same date 11/08/2020 the Sub County Children's Officer Machakos wrote a letter to Machakos Law Courts requesting for the Child's Committal and placement

4. The minor was committed at Village of Hope Children's Home for Care and Protection through the Children's Court at Machakos, Protection and Care Case No. 35 of 2020. On 22/11/2021 Machakos Police Station issued a 2<sup>nd</sup> Police letter indicating that nobody had claimed the child (letter attached). The Village of Hope Children's Home further reported that during his over six months stay in the institution that no relative had turned up to claim the child, and neither have they received any information from the Police Department concerned regarding any claimants. The minor stayed in the home until 5<sup>th</sup> May, 2022 when he was placed under the care and control of the Mr. NMM and Mrs EMM (the Applicants herein). He has since continued to enjoy the parental love, care and good nurturing accorded to him by the Applicants and has certainly bonded well with the Applicants.
5. The minor was thus freed by Buckner Kenya Adoption Services Case Committee on its sitting of 21<sup>st</sup> March, 2022 *vide* Certificate Declaring Child Free for Adoption Serial No.0537.
6. The following documents were availed from Buckner Kenya Adoption Services for baby NJ a.k.a.GK;
  1. Initial Police Letter from Machakos Police Station dated 30/07/2021.
  2. letter by the Sub-County Children's Officer – Machakos Sub-County.
  3. Copy of a New Born Unit Exit Form
  4. Copy of placement form into the village of Hope children's Home
  5. Copy of the committal report dated 11/08/2020
  6. Extract committal orders by the Children's Machakos
  7. Final police letter
  8. Copy declaring child free for adoption
  9. Certificate of Declaring child free for Adoption serial No.0537
7. The Applicants herein NMM and EMM are residents of Machakos. The Applicants annexed the following documents in support of her application;
  1. Applicants' copy of Identification cards
  2. Applicants Certificate of marriage serial No.198031
  3. Applicants' daughter Certificate of Birth
  4. Mpesa statement for the Applicants
  5. Title Deed
  6. Medical Reports for the Applicants
  7. Applicants Police clearance Certificates



8. Referee forms
  9. Letters of support
  10. Guardian letter of consent and copy of ID Card
  11. Proposed Legal Guardians and their ID Cards
8. Pursuant to the Buckner Kenya Adoption Services the relevant Adoption Society, prepared and filed in Court a favorable Report dated 1<sup>st</sup> September, 2024 in respect of the proposed adoption of the child by the Applicant.
  9. The Guardian Ad Litem, DNN of ID Number 30---51 who was appointed by this Court on 4/11/2024 replacing Margaret Muema who had been appointed earlier on 8/07/2024 also filed the Statutory Report dated 14/11/2024 in which she noted that the proposed adoption of the child by the Applicant would be in the best interests of the child.
  10. The Buckner Kenya Adoption Services filed their comprehensive report dated 1/09/2024. On 20/11/2024 Ms Carol Nangila from the Agency appeared in Court in support of these Adoption proceedings. She told the Court that baby NJ was born in 2020 and was abandoned at Machakos Hospital Level 5 who had been transferred from Athi River and was on-going treatment. The matter was reported at the Machakos police station on 11/08/2020 *vide* OB No.23/28/7/2020. The minor was committed at the Village of Hope for care and protection Case No.35 of 2020. The minor was freed on 21/03/2022 *vide* Certificate Declaring Child Free for Adoption Serial No.0537. The child was placed with the Applicants on 5/05/2022. On 13/09/2022 home visit was done at the Applicants Machakos residence and found that the child had bonded well with the Applicants. He had also bonded with the sister and the child is taken good care of.
  11. Similarly, the Report by the Buckner Kenya Adoption Services dated 1/09/2024, the Applicants made an adoption application to Kenya Children's Home Adoption Society on 23/02/2022. The Applicants applied to be placed with a baby boy aged between one and two years old with a view to eventually adopt the child. They were placed with baby GK a.k.a. NJ from village of Hope Children's Home on 5/05/2022. The Applicants completed the three months foster period successfully and their final follow up was done on the 13<sup>th</sup> September, 2022. The Applicants were married in the year 1998 *vide* Certificate of Marriage serial No.1XXXXX1. The Applicants have been blessed with one biological daughter by the name PM born on 25/02/2015 *vide* serial Number 7XXXXXX7 – aged 9 years old and a grade four pupil at XXX Primary School. The Applicants shared that due to medical reasons they cannot have any more children hence need to adopt a child and they are desirous to have a child they can love, nurture and share their life with. The Applicants live in their own 5 bedroomed spacious house in Kalama Machakos (Title Deed attached) fitted with all basic amenities. The Applicants are committed Christians worshipping at X.X.X Kamuthini where they are active members participating in various activities in the church. The Applicants have appointed BTM and FKM a couple blessed with two children. BM is the younger brother to the Male Applicant. The Applicants understood their role and have consented in writing. The Applicants have been declared to be of good health save for the gynecological challenges (medical reports attached). The Applicants do not have any criminal record (police clearance forms attached)
  12. The Applicants are both working. The male applicant is a casual laborer while E runs her own business and have good income (Mpesa statements attached). The Applicants extended family are supportive of the Adoption whereby BTM (male Applicant's brother) and his wife FKM have accepted to be the



Legal Guardians of the minor and filed their joint Affidavit. The Adoption Agency recommended the Adoption.

13. The Director of Children's Services filed their report dated 05/11/2024 in respect of the proposed adoption of the child by the Applicant. Ms Emily Kimanzi the Machakos Sub County Children's Officer appeared in Court on 12/11/2024. She told the Court that she interacted with the Applicants and found that they have one biological child a girl aged 9 years old. The extended family supports the adoption. On observation she found that the child is being taken care of and this adoption is in the best interests of the child.
14. Similarly, the Report indicated that the Applicants are a couple. The Applicants have one biological daughter aged 9 years old. The Applicants lives in their own home which is environment friendly to bring up a child. The bonding process has taken place successfully. The Applicants are hardworking and they will be able to provide for the child. The director of children Services recommended the Adoption.
15. The Guardian Ad Litem, DNN of ID No. 30---51 filed her Report dated 14/11/2024 in support of these Adoption proceedings. She stated that the Applicants are financially stable with sufficient resources needed in the upbringing of the child. The minor herein has well fitted into the family like a child born of the Applicants. The minor is currently enrolled at St. XXX Academy at Grade PP 1. The Applicants and the minor attends Kamuthini XXX Kalama where the minor attends Sunday school and the female applicant is the Sunday school teacher. The minor has bonded well with the family and he is happy. It was observed that the minor has fully settled and well taken care of. The Guardian Ad litem recommended the adoption.
16. The Legal Guardians BTM and FKM a brother and sister in-law to the Male Applicant filed their joint Affidavit sworn on 19/03/2024. They stated that they are aware that their role is to acquire parental responsibility and rights over the child herein concerning the child's care, education, health and welfare in the event of the Applicants death, physical impairment or debilitating disease.
17. All the Statutory Reports filed in respect of the proposed adoption of the child by the Applicants recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants fulfilled all the legal requirements in relation to the adoption of the child.
18. The home visits by the Guardian ad litem, the Adoption Society Representative and the Director of the Children's Services established that the Applicant is financially and socially stable and has emotional capability to provide for the upkeep and education of the child and give parental care.
19. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicant have had the custody of the child, the child has bonded well. The child considers the Applicants to be his parents.

## **Disposition**

1. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application.
2. The Applicants, NMM And EMM are hereby allowed to adopt Baby NJ A.k.a. GK.
3. Henceforth, the child shall be known as EM.
4. The child's date of birth is 7<sup>th</sup> July, 2020 and the place of birth shall be Machakos County.



5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.
6. BTM and FKM shall be the Legal Guardians of the child should such eventuality arise.
7. This Court directs the Registrar General to duly enter this order in the Adoption Register.
8. That the Directorate of Children Services to carry out supervision on the said adoption and file a report on the ongoing safety/security of the child within one year of the Adoption in the best interests of the child under Section 8 of *Children's Act* 2022.
9. The Guardian ad litem is hereby discharged.

It is so ordered.

**JUDGMENT DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 18<sup>TH</sup> DAY OF DECEMBER, 2024 (PHYSICAL/VIRTUAL CONFERENCE).**

**M. W. MUIGAI**

**JUDGE**

