



**In re Baby S (Child) (Adoption Cause 20 of 2014)
[2024] KEHC 16182 (KLR) (18 December 2024) (Judgment)**

Neutral citation: [2024] KEHC 16182 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE 20 OF 2014
MW MUIGAI, J
DECEMBER 18, 2024
IN THE MATTER OF CHILDREN ACT 2022
AND
IN THE MATTER OF BABY S (CHILD)**

IN THE MATTER OF

PMN 1ST APPLICANT

TMK 2ND APPLICANT

JUDGMENT

1. The Applicants herein, PMN – ID. Number 10XXXX44 and TMK- ID. Number 54XXX49 (“the Applicants”) sought by their application to be allowed by this Court to adopt S (Child) (hereafter “the child”).
2. *Vide* Originating Summons application dated 13th October, 2014 the Applicants sought among other orders; that JWN of ID Number 20XXXX88 be appointed as the Guardian Ad Litem in this case; that the Applicants herein PMN and TM be authorized to adopt BABY S and the baby be known as SMM; that the particulars be entered in the adopted children’s Register accordingly.
3. The Applicants their Amended origination Summons dated 15/03/2022 further sought orders that GGM be appointed as the Legal Guardian of the child upon the granting of the Adoption Order; that the Director of Children’s Department to investigate the case and file a Report; that the Registrar General shall make in the adopted children’s Register an entry recording the adoption in accordance with the particulars set out in the schedule attached hereto. JWN of ID Number 20XXXX88 was appointed as the Guardian Ad Litem on 23/09/2024.
4. The minor herein (S) the subject of the present adoption proceedings is estimated to have been born on 07/09/2011. He was allegedly abandoned by the mother on 21/09/2011 at Githurai 45 and the child was found by a Good Samaritan named Leah Wambui ID Number 91XXXX14. The said good



Samaritan took the child to Kasarani Police Station where the abandonment incident was reported vide OB No.62/21/09/2011.

5. A vacancy was secured for the child at Soon Children's Home on the same day through the Kasarani DCO vide their letter referenced CS/1/6/516/2011. The Children's Officer further presented the child before the magistrate's Court for committal to the custody of the homes vide Protection and Care Case Number 68/2012 for a period of three years. The police involvement is confirmed by the station's initial correspondence dated 22/02/2012 and a further letter on 25/02/2012 stating that no claimants had come forward for the child. The child was officially placed in the care of Soon Children's Home and further committed to the said home accordingly.
6. The Soon children's Home reported that during the minor stay in the institution, no parent or relative turned up to claim the child, and neither have they received any information from the department of children's services and police department concerned regarding any claims. No information is available regarding the child's biological family hence tracing them is not possible. The police confirmed having exhausted their investigations on this matter and have not been able to trace the child's family as per the final letter from Githurai Kimbo Police Station dated 25/07/2012.
7. Baby S was thus freed by K.K.P.I Adoption Society Committee on its sitting of 29th August, 2012 vide Certificate Declaring Child Free for Adoption Serial No.232.
8. The following documents were availed from KKPI Adoption Services for S:
 1. Admission Form to Soon Children's Home dated 14/08/2012
 2. Initial police letter from
 3. Final police letter from
 4. Court committal dated 16/07/2012
 5. Kasarani District Children's officer letter to Soon Children's Home
 6. Certificate of Declaring child free for Adoption serial No.232.
9. The Applicants herein PMN and TMK 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.10XXX0
 3. Applicants certificate of good conduct
 4. Applicants birth certificates
 5. Applicants medical Reports
 6. Guardian ad litem letter of consent
 7. Letter of the Proposed Legal Guardian
10. Pursuant to the K.K.P.I Adoption Society the relevant Adoption Society, prepared and filed in Court a favorable Report dated 15/10/2024 in respect of the proposed adoption of the child by the Applicants.
11. The Guardian Ad Litem, JW who was appointed by this Court filed the Statutory Report dated 21/11/2024 in which he noted that the proposed adoption of the child by the Applicants would be in the best interest of the child.



12. The K.K.P.I Adoption Society filed their comprehensive report dated 15/10/2024. The report contains the Applicants family background, education and occupation background. On 18/11/2024, Ms Jacqueline Mwangi a Programme Manager from the Agency appeared in Court in support of these Adoption proceedings.
13. Similarly In their Report the Applicants had approached the KKPI Adoption Society office with an intention to legalizing the adoption of a male child aged 13 years. Relevant interview was conducting with an aim of assessing the suitability to adopt in accordance with Section 184 of the Children's Act 2022. The Applicants were married customarily in 1999 and later solemnized their union on 8/12/2003 through a civil ceremony vide Certificate of marriage Serial No. 10XXX0. The Applicants are residents of Nyeri. They live in a 8 bedroomed house well equipped for day to day living. They have lived in the said neighbourhood for the last 23 years. The Applicants have not been blessed with any biological children. The prospective adoptive father works as a salesman while the prospective Adoptive mother is a farmer. The Applicants earns a monthly gross income of about \$6,000/- and their daily expenses amounts to \$4,000/-. The Applicants motivation towards adoption is to be able to exercise their parental responsibility and grow their family. The Applicants have been taking care of the child since he was placed under their care and have proved to be capable and willing to take care of this child. The Applicants have no major health concern as per the medical Reports attached. The Applicants extended family are in support of these Adoption process. The Applicants do not have any criminal record as exhibited by their Certificates of good conduct. The Adoption Agency recommended the Adoption.
14. The Director of Children's Services filed their report dated 22/10/2024 in respect of the proposed adoption of the child by the Applicants. Ms Emily Kimanzi the Machakos Sub-County Children's Officer appeared in Court on 18/11/2024. She told the Court that the Applicants have been living with the child for 13 years. The bonding has been done.
15. Similarly, the Report indicated that the Applicants are a couple married in the year 1993 customarily and later solemnized their marriage in the year 2003. According to the Applicants after getting married they conceived but they lost the pregnancy and this is the only time they got pregnant. The Applicants motivation to adopt is a desire to be parents and to own their own child to share their lives and resources with a needy child. The Applicants extended family have accepted the minor as part of the family. The Applicants live in their own apartment building within Nyeri Town. The house is supplied with all the necessary amenities. The Applicants their own 3 acres of land which they inherited from their parents as well as another ¼ of an acre in Nyeri Town where they rear poultry and cows. They also own 2 cars which they use as a family. On an interview with the minor the minor said he is grateful to be part of this family and promised to work hard in his education. He is already enrolled at {particulars Withheld} Primary School where he is in Grade 7. The Applicants are Christians fellowshipping at ACK {particulars Withheld} Nyeri. The Applicants are hardworking whereby the Male Applicant is an Insurer while the female Applciant is a farmer and are able to provide for the child. The director of children Services recommended the Adoption.
16. The Guardian Ad Litem, JW filed his Report dated 21/11/2024 in support of these Adoption proceedings. He stated that he has been visiting the Applicants home regularly and he observed that the child is well settled and he is very attached to the prospective parents and has developed an excellent relationship with the Applicants and he describes himself to belong to a family. The minor attends church regularly with the prospective parents. The extended family are in support of these adoption and the minor considers the family as his family. The Guardian Ad litem recommended the adoption.



17. The Legal Guardian GGM filed a letter of acceptance stating that she is aware of her role is to acquire parental responsibility and rights over the child herein if anything happens to both the prospective parents and take care and protect this child.
18. 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.
19. 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.
20. 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, PMN and TMK are hereby allowed to adopt Baby S.
3. Henceforth, the child shall be known as SMM.
4. The child's date of birth is 07/09/2011 and the place of birth shall be [Particulars withheld].
5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.
6. GGM shall be the Legal Guardian 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 18TH DAY OF DECEMBER, 2024 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

