



**In re MA aka PW (Baby) (Adoption Cause E007 of 2021)
[2023] KEHC 1127 (KLR) (23 February 2023) (Judgment)**

Neutral citation: [2023] KEHC 1127 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
ADOPTION CAUSE E007 OF 2021
MM KASANGO, J
FEBRUARY 23, 2023**

IN THE MATTER OF

FNK APPLICANT

JUDGMENT

1. By an Originating Summons dated May 27, 2021 the applicant (FNK) seeks an order authorising her to adopt baby MA and that the baby be henceforth called PW.
2. The baby was presumably born on April 15, 2014. The baby was found abandoned in [particulars withheld] Onyore on December 5, 2016. The matter was reported to Ngong Police Station and recorded under OB No. 31/XX/XX/2016. The baby was under the care of Tunza Children's Home until the demise of its director. The baby was later transferred to a children's home called Hekima Place on November 15, 2017 *vide* Ngong Law Court's protection and care Case No. XX of 2017. Despite investigations being carried out, the baby's biological parents were not traced. The Officer Commanding Ngong Police Station by letter dated January 23, 2018 confirmed that although investigations were carried out no one had claimed the baby and that neither were the relatives traced.
3. The Kenya Children's Home Adoption Society case committee declared the baby free for adoption by certificate dated February 21, 2018. Accordingly, the applicant's application is in compliance with Section 184(1)(a) of the [Children's Act 2022](#) (hereafter the Act). That Section provides that arrangements of adoption of a child would not be commenced unless the child is declared free for adoption. Section 184(1)(b) requires a child to have attained the age of six weeks prior to arrangements of adoption being undertaken. The baby in this case as stated before is presumed to have been born on April 15, 2014. The aforesaid subsection is complied by the applicant.
4. The applicant is a single female, new 49 years old. She runs a retail business in Thika town. The applicant does not have children of her own.



5. The baby has been in continuous care and control of the applicant for more than the requisite three months required under Section 185(2)(a) of the Act. The adoption of the baby is recommended by the Kenya Children's home, an Adoption Society. See Section 185(b) of the Act.
6. The baby was abandoned in Ngong area and is therefore eligible for adoption. The report of Kenya Children's Home dated March 24, 2018 and of the guardian ad litem and of the Thika Children's officer indicated that the baby has bonded well with the applicant. An excerpt of the guardian ad litem's report shows this bonding as follows:-

“Baby PW is very happy and calls the applicant mum. I noticed the kind of bond they have is very deep and she feels secure with her. she has also bonded well with the extended family.”
7. The applicant is fit to adopt the baby - she is of sound mind. She has not been convicted of a crime. Overall, I find and hold that this adoption is in the best interest of the baby. The need for consent for this adoption will be dispensed with because the baby was found abandoned and no relative to date has claimed her. The applicant has also proved her ability to cater for the needs of the baby.
8. The judgment of this Court is:-
 - (a) FNK, the applicant is hereby authorised to adopt Baby MA who shall henceforth be known as PW.
 - (b) JMK is hereby appointed legal guardian of the baby in the event of death or incapacity of the applicant before the full age of the baby.
 - (c) The guardian ad litem is hereby discharged.
 - (d) The baby's date of birth are declared to be 15th April, 2014.
 - (e) The Registrar General is hereby directed to enter this adoption into the Adopted Children's Register.
 - (f) The baby is presumed to be a Kenyan citizen.
 - (b) The consent to this adoption of the baby's biological parent/s is/are hereby dispensed

JUDGMENT DATED AND DELIVERED AT KIAMBU THIS 23RD DAY OF FEBRUARY, 2023.

MARY KASANGO

JUDGE

In the presence of

Coram:

Court Assistant : Julia

Applicants:- No appearance

COURT

JUDGMENT delivered virtually.

MARY KASANGO

JUDGE

