



**In re M aka MS (Baby) (Adoption Cause E002 of 2022)  
[2023] KEHC 1013 (KLR) (17 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 1013 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MAKUENI  
ADOPTION CAUSE E002 OF 2022  
GMA DULU, J  
FEBRUARY 17, 2023  
IN THE MATTER OF BABY M AKA MS  
ON APPLICATION FOR AN ADOPTION ORDER**

**IN THE MATTER OF**

**NM ..... 1<sup>ST</sup> APPLICANT**

**BNK ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. Before me is an Originating Summons dated July 28, 2022 filed through counsel Janet, Jackson & Susan advocates, by N.M and B.N.K under section 154, 156, 157, 159, 160, 162 and 163 of the [Children Act, 2001](#), with the following prayers:-
  - i. That the requirements of section 158(4) (a) of the [Children Act](#) be waived as provided for by section 159(1) of the [Act](#).
  - ii. That J.K.M in the said Republic be appointed Guardian Ad Litem in this case.
  - iii. That the applicants be authorized to adopt baby M aka M.S the baby be known as M.B.N.
  - iv. That E.M.W and S.M.M be appointed the legal guardians of the child.
  - v. That the Director of Children's Department do investigate the case and file a report.
  - vi. And it is directed 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.



2. The application is supported by the joint affidavit of the two applicants sworn on July 28, 2022, in which the respective identity card numbers of the applicants are disclosed, and the affidavit also annexes a number of documents.
3. On October 28, 2022, J.K.M was appointed by the court as the *guardian ad litem*.
4. Thereafter, the Director of Children Services through Selastine Nthiani (Assistant Director) filed a report on the proposed adoption. The gist of the report is that the child is an abandoned child, who stands to gain through having stable parents and a home through this adoption, which is thus in the best interests of the child. The Director of Children's Services has thus recommended the adoption.
5. The guardian ad litem J.K.M also filed his report dated November 1, 2022, the gist of which being that he visited the home of the applicants where the child lived, and found that the adoptive parents had bonded well with the child. He thus positively recommended the adoption.
6. The Kenya Children's Homes Adoption Society also filed a report favouring the proposed adoption of the child.
7. The proposed guardians of the child E.M.W and S.M.M also undertook in court to take such guardianship responsibilities.
8. On my part, having considered all the facts and evidence placed before me, I am of the view that both applicants, a pastor and businesswoman who are husband and wife, are fit and qualified to adopt the child.
9. I also find that the adoption is in the best interests of this otherwise abandoned child, as it will give him an opportunity to grow up in a family and a home environment in which he will get parental support and guidance.
10. I thus allow the application for adoption and order as follows:-
  - i. The requirements of section 158(4) (a) of the *Children Act* be and are hereby waived as provided for by section 159(1) of the *Act*.
  - ii. The applicants N.M and B.N.K be and are hereby authorized to adopt baby M aka M.S and the baby will be known as M.B.N.
  - iii. That E.M.W and S.M.M be and are hereby appointed the legal guardians of the child.
  - iv. It is directed that the Registrar General shall make in the Adopted Children's Register an entry recording this adoption.

**DATED, SIGNED AND DELIVERED AT MAKUENI IN OPEN COURT THIS 17<sup>TH</sup> DAY OF FEBRUARY 2023.**

**GEORGE DULU**

**JUDGE**

