



**In re Baby F (Adoption Cause E016 of 2022)
[2023] KEHC 2585 (KLR) (29 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 2585 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E016 OF 2022
MW MUIGAI, J
MARCH 29, 2023
IN THE MATTER OF CHILDREN ACT 2001
AND
IN THE MATTER OF BABY F ALIAS JMK**

IN THE MATTER OF

JKK 1ST APPLICANT

ANK 2ND APPLICANT

JUDGMENT

1. The Applicants, JKK – ID No 56xxxx - Tel No 072xxxx and ANK - ID No 9xxxx – Tel No 0711334777 (“the Applicants”) sought Originating Summons application to be granted by this Court orders to adopt Baby F alias JMK (hereafter “the child”).
2. The Originating Summons application dated September 21, 2022 the Applicants sought the following orders, that the requirements of Section 186 (8) (a) of the Children’s Act 2022 be waived as provided for under Section 187 (1) of the Act; that RNM be appointed Guardian Ad Litem in this case; that the Applicants be authorized to adopt Baby F and the minor be known as JMK ; that CKM and JWN be appointed the Legal Guardians of the child; that the Director of Children’s Department to investigate the case and file a report; that the Registrar General be ordered to make in the adopted Children’s register an entry recording the adoption in accordance with the particulars set out in the schedule attached hereto.
3. RNM, a friend and neighbor to the Applicants filed Consent to act as Guardian Ad Litem and Affidavit of Fitness of September 21, 2022. The Court appointed the Proposed Guardian Ad Litem Applicant as Guardian ad Litem on December 13, 2022.



4. The Applicants herein are husband and wife and married vide Marriage Certificate No 70xxxx. They are residents of [Particulars withheld] area, within Kangundo sub-County, Machakos. Both Applicants are employed by the [Particulars withheld] . They have one biological daughter, MM who is married with children and resides within [Particulars withheld] area. The Applicants annexed the following documents among others in support of their application ;Medical reports for both ApplicantsCopies of ID Cards for the Applicants as well as the legal guardiansConsent to act as guardian Ad LitemConsent to act as legal guardians
5. The Applicants are financially stable with steady monthly income from employment. They own a 4 bedroom home with running water and solar energy at [Particulars withheld] on 3 acres of land and own shares in Kwetu Sacco.
6. The child (Baby Fidel) who is the subject of the present adoption proceedings was presumably born on October 23, 2018 vide Birth Certificate serial Number 0015xxxx. He was abandoned by his mother Ms RW on December 22, 2018 at [Particulars withheld] village. The child was rescued by Good Samaritans one AWN of Phone No 0723xxxx and NNN of Phone No. 0728xxxx. The matter was reported to Lari Police Station under OB 39/22/xx/xxx and thereafter the minor was taken to Tigoni Hospital for a medical check-up.
7. The infant was committed to The Nest children's Home temporarily for a period of three months as the efforts to trace the mother were carried out. The minor was later committed to the Nest Children's Home through Limuru Law Courts on February 14, 2019 vide Care and Protection Case No.1 of 2019 for a period of six (6) months. The committal was later extended for three (3) years at the said Court vide Care and Protection Case No 1 of 2019 on September 18, 2019. A final Police letter from Lari Police station dated May 20, 2021 indicated that nobody had claimed the child since he was rescued and efforts to trace his mother or kindred had been unfruitful.
8. On October 6, 2021 the Sub-county Children's Officer Lari wrote to the SRM Limuru Law Courts for extension of the committal order for another period of 3 years and the same was extended for another period of 3 years on October 6, 2021 by the said Court.
9. The two Good Samaritans, AWN and NNN were contacted. They stated they found the abandoned minor subject of these proceedings and another minor who were abandoned by their biological mothers at the gate of AWN. The said AWN stated that no one has ever come to her place to claim the children. RWG, mother to N the child found abandoned together with F and a Friend to F's mother was contacted through her phone number but was unreachable. The Case Committee of Little Angels Network held on 1st December, 2021 declared the Child free for Adoption vide a Certificate declaring a child free for adoption Serial No xxxxx.
10. The following documents were availed from Kenya Children's Home Adoption Society for baby F.Child's Declaration certificate serial no.xxxx of 1/12/2021Birth Certificate of the minor serial no. 00xxxxInitial police letter of December 22, 2018Admission Form dated December 22, 2019Sub-county Children's office letter to court dated January 11, 20191st Court committal dated February 14, 20192nd Court committal dated September 18, 2016Final police letter dated May 20, 2021Sub-county office letter dated 6/10/20213rd Court committal dated 6/10/2021Good Samaritan written statedCare agreement FormPre-placement Report
11. Pursuant to Section 185 (2) (b) of the [Children Act](#) 2022, the Kenya Children's Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by the Applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was



- similarly in favor of the proposed adoption. The Guardian Ad Litem, RNM also filed the statutory report in which she noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.
12. The Kenya Children's Home Adoption Society filed their report dated June 3, 2021. Mr. Joshua Mwalimu Wambua a Social Worker at Little Angels Network appeared in Court on February 7, 2023 in respect of this Adoption. He told the Court how the child subject of these proceedings was rescued and committed to The Nest children's Home for Care and Protection and subsequently freed for Adoption vide Freeing Certificate Serial No 00xxxx on December 1, 2021. He further stated that the Adoptive parents (Applicants) approached Little Angels Network Adoption Society on May 7, 2021 with a view to adopt a child.
 13. The Report from Little Angels Network contained family and professional background information of the Child's Adoptive Parents. Following their application, the Applicants were taken through the relevant interviews, relevant visits were carried out and the relevant Report availed to the Case Committee on June 2, 2021.
 14. The Applicants are a married couple vide marriage certificate serial No 70xxxx dated April 16, 1994. The Applicants have one biological child (adult) namely MM born in the year 1995. The said MM is supporting of the said adoption and has consented to the same vide her consent letter dated April 30, 2021. The motivation of the applicants to adopt the minor is for the purposes of expanding their family. The applicants are Christians and have good morals. Their extended family is supportive of this adoption and they have appointed the 1st Applicant cousin CKM & JWN as the Legal Guardians.
 15. The applicants are employed by [Particulars withheld]. The applicants are financially stable with JKK earning an income of Kshs 15,781/ while ANK earns Kshs 22,962/- they live in their own home on ancestral land in a four bedroomed house with all the utilities available. Baby F was placed in the care of the Applicants on February 7, 2022 and the relevant follow-ups done. The Applicants have bonded well with the child. On observations during the interview sessions and prior meetings it was observed that the Applicants and the minor have bonded well with the minor. The Adoption Society recommend Adoption.
 16. The Director of Children Services through a Report dated February 1, 2023 in respect of the proposed adoption of the child by the Applicants was prepared by Nathan M Kyule Matungulu the Sub County Children Officer. Nathan M Kyule Matungulu the Sub County Children Officer appeared in Court on February 7, 2023 in respect of these proceedings and stated that he conducted home visits on January 31, 2023 at Muumoni Village in Matungulu sub-County. On observations he found that the minor has bonded well with the Applicants and he recognizes the Applicants as his parents. He has his own bedroom and there is an old lady who took care of the child. The minor is aged 4 years and attends [Particulars withheld] Primary school. According to the report Baby F was placed with the Applicants for the mandatory bonding period prior to adoption on February 17, 2021. The Applicants are stable financially from their incomes and investment. They have their own house built in their three acres piece of land. The Applicants are desirous to enlarge their family as well as giving a child without family a family and in the process grow their family. The applicants have bonded well with the minor and they live comfortably in their house and have the required amenities. The applicants are socially and economically able to take care of the child. The adoption was recommended.
 17. The Guardian ad Litem, RNM filed her Report on dated February 16, 2023 in support of these Adoption proceedings. She stated that she has known the applicants for period of over 10 years. That the applicants are teacher at [Particulars withheld] primary school. She has visited the family and observed that the child has interacted well with the Applicants. That the applicants have the support



from their extended family which has fully welcomed the minor as part of the family. The Guardian Ad litem recommended the adoption.

18. The Legal Guardians CKM ID 202xxx and JWN ID 227xxxx filed their report dated February 7, 2023 and consented to take over care of the child in case of any eventuality. The said CKM is a cousin to the 1st Applicant JKK . They have filed joint Affidavit of Fitness sworn on September 21, 2022 as well as a Consent to act as legal guardians.
19. All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have 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 has fulfilled all the legal requirements relative to the adoption of the child.
20. The home visits by the guardian Ad Litem, the Adoption Society and the Director of the Children's Services established that the Applicants are financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants 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, JKK and ANK are hereby allowed to adopt Baby Fidel.
3. Henceforth, the child shall be known as JMK .
4. The child's date of birth is October 23, 2018 and the place of birth shall be Limuru.
5. The child is a Kenya Citizen by birth and entitled to all rights of a Kenyan citizen.
6. CKM and JWN 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 interest of the child under Section 8 of *Children's Act 2022*.
9. The Guardian Ad Litem is hereby discharged.

It is so ordered.

DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 29th DAY OF MARCH 2023 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

In The Presence Of:

No Appearance - For The Applicants

Geoffrey/patrick - Court Assistant(s)

