



**In re Baby KI alias DJ (Adoption Cause E012 of 2023)  
[2023] KEHC 3872 (KLR) (Family) (27 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3872 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E012 OF 2023  
DKN MAGARE, J  
APRIL 27, 2023  
N THE MATTER OF THE CHILDREN ACT, 2022  
IN THE MATTER OF BABY KI ALIAS BABY DJ**

**IN THE MATTER OF**

**JGK ..... 1<sup>ST</sup> APPLICANT  
AWK ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. This matter came before me, during the service week this Easter. I had 4 witnesses on the adoption of baby DJ.
2. The Buckner adoption society had approved the applicant on 16/7/21 and the child was placed on 4/2/22. The minor had been freed for adoption on 12/4/2023. Irene Ogutu from Buckner Kenya confirmed that they approve the adoption. I have perused the report filed on 12/4/23 and I am satisfied with the same.
3. I have also perused the report filed by the Directorate of Children Services and I note that they recommend the adoption.
4. The applicant AWK, and JGK are married. They have no other children and they have decided to adopt.
5. The male applicant is 41 years old while the female applicant is 43 years old.
6. The female applicant is a nurse, while the male applicant is a business man.

The applicant meets the Pre-requisites for Adoption under section 184 of the [Children's Act](#), which provides as doth: -

- (1) A person shall not commence any arrangements for the adoption of a child unless—



- (a) the Council, in accordance with the rules, has declared the child free for adoption; and
    - (b) the child has attained the age of six weeks.
  - (2) A person, including a parent, guardian or adoption society, shall not, prior to the making of an adoption order, entrust a child to the care, possession or control of any person not qualified to adopt a child in accordance with this Act.
  - (3) An applicant shall not preselect a prospective adoptive child except—
    - (a) in the case of kinship adoption;
    - (b) Where the applicant is a foster parent seeking to adopt a fostered child under the applicant’s care.
  - (4) The Secretary shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings.
  - (5) Any person who contravenes subsections (1) or (2) of this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one million shillings, or to both.
7. The Applicant is not disqualified by dint of section 186(6) of the [Children’s Act](#) from adopting. The section provides as doth: -

“The Court shall not make an adoption order in favour of an Applicant or joint Applicants if the Applicant or joint Applicants, or any of them—

- a) is of unsound mind within the meaning of the [Mental Health Act](#) (Cap. 248);
  - (b) is incapable of exercising proper care and guardianship of a child;
  - (c) has been convicted by a Court of competent jurisdiction for any of the offences specified in the Third Schedule or similar offences;
  - (d) in the case of joint Applicants, if the Applicants are not married to each other;
  - (e) is a sole male Applicant except where the Applicant is a biological relative of the child; or
  - (f) is a foreign Applicant except where the Applicant is a biological relative of the child.
8. I am satisfied that they are proper persons to adopt the child.
9. In the circumstances, I allow the application in the following terms: -
- a. JGK and AWK be allowed to adopt baby KI also known as DJ who will be known as KKG.
  - b. CNK be appointed as the Legal guardian of the Minor.
  - c. The Registrar General to enter this adoption in the Register of Adoption.
  - d. The Registrar of births and deaths to issue the child with a birth certificate
  - e. The child be presumed to be Kenyan by birth.
  - f. The director of Immigration is authorized to issue a passport to the child.



- g. The Guardian ad litem is discharged.
- h. The date of birth is declared as 16/1/2021 at Nairobi, Kenya.
- i. This file is sealed and closed.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 27TH DAY OF APRIL, 2023. JUDGMENT DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**DENNIS KIZITO MAGARE**

**JUDGE**

In the presence of:

Miss Kemuto for the Applicant

Court Assistant - Firdaus

**M.D. KIZITO, J.**

