



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby SG alias GGN (Minor) (Adoption Cause 139 of 2015)
[2023] KEHC 18198 (KLR) (Family) (27 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 18198 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE 139 OF 2015
EKO OGOLA, J
APRIL 27, 2023
IN THE MATTER OF THE CHILDREN'S ACT, 2001
AND
IN THE MATTER OF THE ADOPTION OF BABY SG ALIAS
GGN (MINOR) AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION
BY CNG & MWW

JUDGMENT

1. Before this court is the originating summons dated May 25, 2015. The applicants CNG and MWW are seeking to be authorized to adopt Baby SG alias GGN hereinafter referred to as the child. They appointed ENC to be the child's guardian *ad litem*. Also, they seek for GKK and ZW to be appointed as the child's legal guardians upon granting the adoption orders.
2. The applicants are a married couple and are both Kenyan citizens as evidenced by the copies of their identification cards. The 1st applicant is an accountant, and the 2nd applicant is a businesswoman. They attached to their summons a copy of the 1st applicant's bank statement as evidence that they are financially capable of providing for the child. They are also in good health and do not have any previous criminal record.
3. On record, there is a report from a social worker from the Directorate of Children's Services. It is stated that the child was born on September 16, 2011 at Kenyatta National Hospital by a mentally unstable woman who was later transferred to Mathare Mental Hospital on September 23, 2011 leaving the child behind. The child was subsequently committed to Hope House Babies Home for three years as a child in need of care and protection. The child was later declared free for adoption on October 30, 2013 by KKPI Adoption Agency and on February 20, 2014, he was placed with the applicants who have been leaving with him to date. It is reported by the social worker, the representative from KKPI Adoption



Agency and the guardian ad litem that the child has bonded well with the prospective adoptive parents, that he is healthy and already attending school.

4. This court on November 12, 2018 and July 29, 2022 found it premature to issue adoption orders since there was no comprehensive report on the whereabouts and mental health status of the child's biological mother.
5. On January 23, 2023, the Directorate of Children's Service filed a report after inquiring about the whereabouts of the child's biological mother. It was stated that the details of the said mother were not available in Kenyatta National Hospital. This could be attributed to the fact that the mother was mentally unstable and that not much detail could have been captured in the circumstances. It was also not indicated who took her to the hospital to deliver the child. Further to this, the mother's details were also missing from Mathare Mental Hospital.
6. It is almost 12 years since the child was born. Neither the family of the biological mother nor the biological mother herself whether mentally stable or unstable have ever returned to Kenyatta National Hospital to inquire about the whereabouts of the child. It is only reasonable to declare the child abandoned. Furthermore, in deciding upon any matter involving a child, courts are obliged to give priority to the best interest of the said child. Section 4(2) of the [Children Act](#) 2001 stipulates as follows:-

“(2) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration”

7. The child has been in the custody of the applicants for at least nine years. He knows the applicants as his family. The child has a social life living with the applicants and it would not be in his best interest to interfere and disrupt this. Accordingly, I do allow the originating summons dated May 25, 2015 and make the following orders:-
 - a. The applicants, CNG and MWW are authorized to adopt the child known as Baby SG alias GGN.
 - b. The guardian *ad litem*, ENC, is hereby discharged.
 - c. GKK and ZW are hereby appointed as the legal guardian of the child.
 - d. The Registrar General is directed to make the relevant entry in the Adopted Children Register.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF APRIL 2023

E.K. OGOLA

JUDGE

In the presence of:

N/A for the Applicants

Gisiele Muthoni Court Assistant.

E.K. OGOLA J

