



**In re MG (Baby) (Adoption Cause E201 of 2022)
[2023] KEHC 3545 (KLR) (Family) (27 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3545 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY**

ADOPTION CAUSE E201 OF 2022

DKN MAGARE, J

APRIL 27, 2023

IN THE MATTER OF

**HKT 1ST APPLICANT
CJ 2ND APPLICANT**

JUDGMENT

1. The guardian ad litem was appointed on January 19, 2023. This matter came before me on April 14, 2023 for hearing during the Easter vacation. I heard 6 witnesses. The applicants are married to each other. The male applicant is 46 years old while the female Applicant is 40.
2. WC, the female applicant’s sister testified and confirmed that she had consented to be the legal guardian.
3. LMA testified on behalf of the Change Trust. She confirmed that applicants where evaluated and approved on April 5, 2021. The child was declared free for adoption on March 11, 2022.
4. The directorate of Children Services, through Carol Olilo, a senior children’s officer stated that they have no objection or reservation. I have also perused the report by the directorate of children service the adoption agency and the guardian ad litem. The reports are positive.
5. Consequently, I find and hold that the Applicants have met the requirements of Section 183 of the *Children’s Act*.
6. 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.
7. The Applicants are 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 therefore allow the originating summons dated November 11, 2022, in the following terms: -
- a. HKT and CJ be authorized to adopt Baby MG to be known as MCT.
 - b. The Registrar General be directed to enter this adoption in the Registrar of adoptions.
 - c. WC as VM are hereby appointed joint legal guardian of the child.
 - d. The registrar of births and deaths directed to issue a birth certificate to the minor.
 - e. The child be presumed to be Kenyan by birth.
 - f. The date of birth be declared as July 16, 2021 at Nairobi.
 - g. The director general of immigration be authorized to issue a passport to the minor
 - h. The guardian ad litem is hereby discharged.
 - 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:



No appearance for parties

Court Assistant - Firdaus

