



**In re baby MW (Minor) (Adoption Cause E070 of 2023)  
[2023] KEHC 21760 (KLR) (Family) (28 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 21760 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E070 OF 2023**

**PM NYAUNDI, J**

**JULY 28, 2023**

**IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY MW**

**IN THE MATTER OF**

**MWK ..... APPLICANT**

**JUDGMENT**

1. The Applicant by way of Originating Summons and Affidavit in support dated 3<sup>rd</sup> April, 2023 sought the following orders;
  - a. That the Applicant, MWK, be allowed to adopt the child currently identified as BMW.
  - b. That henceforth, the child be renamed as NWW.
  - c. That the child's date and place of birth be declared to be 28<sup>th</sup> September, 2020 in Kiambu County.
  - d. That the child be presumed to be a Kenyan Citizen by birth and is consequently, entitled to all the rights and benefits in respect thereof.
  - e. That EMK be appointed as the Legal Guardian of the child, in the event that the Applicant herein is incapacitated or in any way unable to discharge her parental obligations.
  - f. That the guardian ad litem be discharged.
  - g. That the Registrar General be directed to make the appropriate entries in the Adopted Children's Register.
2. The matter was canvassed by way of vive voce evidence on the virtual platform where the Applicant stated she is single and has no biological children of her own due to a medical condition hence her desire to adopt.



3. The Applicant is an Accountant at [Particulars Withheld].
4. The Applicant is a Christian. Her motivation for adoption is that she desires to have a family of her own. She understands the implications of adopting the child. She further stated that she will assume full parental responsibility.
5. Accordingly, the Court also observed that the subject herein (NW) was jovial and recognized her Aunt EMK who is Applicant's sister as well as appointed legal guardian of the child.
6. The Legal Guardian stated that she has consented to the adoption and understand the nature of the obligation in the event that the Applicant is unable to take care of the child where she stated that she will assume full responsibility.
7. The Minor is estimated to be born on 28<sup>th</sup> September, 2020 in Githiga Sub-Location, Central, Kenya to one JWM. As per the Notification for Parents Serial No. xxxx.
8. That according to the area Chief, Githiga Sub-Location, the child's mother delivered her at coffee plantation belonging to one FWW where the child's mother sought assistance from FWW to take care of them for 21 days, however FWW learned that the child's mother hailed from Murang'a and needed help to get back to her family.
9. The Applicant Further stated that FWW together with a team organized by the Chief accompanied the Child's mother and the child to Kangari.
10. However, upon reaching Kangari, Murang'a the Child's mother feigned nausea and used the opportunity to escape, leaving the baby with FWW.
11. That the matter was reported at Githiga Polcie Post which falls under Kanyenyaini Police Station and recorded vide O.B Number xxxx.
12. Further, the matter was reported at Murang'a West Children's Office and the child was admitted at New Life Home Trust on 21<sup>st</sup> October, 2020. She was then committed to the care and protection of the said home by the Children's Court at Kangema vide Protection and Care Case Number xxxx.
13. That Applicant further stated that New Life Home's Medical Doctor conducted a medical examination on the child and deemed her to be healthy.
14. A police Letter dated 1<sup>st</sup> December, 2021 from OCS, Kanyenyaini Police Station as well as Murang'a West Sub County Children's Officer confirms that biological parents of the child have not been traced and no one has ever come to claim the child
15. That on 18<sup>th</sup> July, 2022 the child was then freed for adoption by the Buckner Kenya Adoption Service. A copy of the freeing certificate of serial number xxxx is attached to Buckner Kenya Adoption Service Report and is dated 7<sup>th</sup> June, 2023. The child was then placed in the care of the Applicant on 31<sup>st</sup> July, 2022.
16. According to the report by Guardian Ad litem dated 3<sup>rd</sup> July, 2023 the child has bonded well with the Applicants. The Applicant is financially and emotionally capable of providing the child with care, protection and education. The Applicant is of good health. She has no criminal record as evidenced by Police Clearance certificate of serial numbers PCC-YLT2V7DJ. The extended family of the Applicant supports this adoption hence Buckner Kenya Adoption Services recommends this adoption.
17. The Applicant by her Chamber Summons dated 3<sup>rd</sup> April, 2023 sought orders to appoint Dorine Achieng Osiro as the Child's guardian ad litem and that the Director of Children's Services be ordered



to conduct independent investigations as to the suitability of the Applicants to adopt the Child and submit their reports.

18. Therefore, on 18<sup>th</sup> May, 2023 this Court issued an order appointing Dorine Achieng's Osiro as the child's guardian ad litem, and further directing the guardian ad litem and the Director of Children's Services to file their respective reports. Pursuant to Section 185 (2) (b) and (3) of the [Children Act, 2022](#), Buckner Kenya Adoption Service and the Director of Children's Services prepared and filed favourable reports in respect of the proposed adoption of the child by the Applicant.
19. This is a local adoption where the evidence provided proves that the Applicant have fulfilled all the legal requirements for the adoption of the child envisaged under Section 184 of the Children's Act Cap 419.

### **Determination**

20. All the statutory reports filed in respect of this proposed adoption recommend that this Court allows the Applicant to adopt the child. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits conducted by the guardian ad litem, the social worker of the adoption society and the representative of the Department of the Children's Services established that the Applicant has the financial and emotional capability to provide for the upkeep, care and education of the Child and that the Child has bonded well with the Applicant.
21. This Court is of the opinion that this Adoption would be in the best interest of the child and allows the Applicant's application that;
  - a. The Applicant, MWK is hereby allowed to adopt BMW.
  - b. Henceforth, the child shall be known as NWW.
  - c. Her date of birth shall be 28<sup>th</sup> September, 2020.
  - d. She is presumed to be a citizen of Kenya by birth.
  - e. EMK (the Applicant's Sister) is hereby appointed as legal guardian of the child should any eventuality arise.
  - f. This Court directs the Registrar General to duly enter this order in the Adoption Children Register.
  - g. The guardian ad litem is hereby discharged.

It is so ordered

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28<sup>TH</sup> DAY OF JULY, 2023.**

**P NYAUNDI**

**JUDGE**

