



**In re PMM1 (Minor) (Adoption Cause E040 of 2023)  
[2023] KEHC 21759 (KLR) (Family) (28 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 21759 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E040 OF 2023**

**PM NYAUNDI, J**

**JULY 28, 2023**

**IN THE MATTER OF THE CHILDREN ACT NO. 29 OF**

**2022**

**AND**

**IN THE MATTER OF ADOPTION OF**

**BABY PMM1(MINOR)**

**IN THE MATTER OF**

**PMM2 ..... 1<sup>ST</sup> APPLICANT**

**PMO ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants by way of originating summons, statement in support of an application and affidavit in support dated March 22, 2023 seeks the following orders;
  - a. That the Applicants be authorized to adopt Baby PMM1.
  - b. That upon Adoption, the child be known as AMM.
  - c. That the Registrar General do make the appropriate entries in the Adoption Children Register
  - d. That JBO as the Legal Guardian
  - e. That the child be presumed to be a Kenyan Citizen.
2. This is a Kinship Adoption envisaged under section 193 of the Children’s Act 2022, where the biological parents are related in terms of consanguinity with the adoptive parents.



3. The Application was canvassed by viva voce evidence on July 20, 2023. The Applicants herein got married under the Kisii Customary Law in the year 1987. The Couple have been blessed with three children two boys and a daughter who have consented to the adoption. The first applicant is a businessman while the second applicant is a business lady.
4. It's the Applicants' statement that they have leaved with the minor for 10 years after minor's mother left her with them when the minor was 2 weeks old. They have been providing and raising her harmoniously in the family and also the minor continues to access love, attention and guidance from both the Applicants hence their reason for adoption. They have proposed JBO who is sister to 2<sup>nd</sup> Applicant as the legal guardian of the child.
5. The Minor was born to GMO and AWM at St. Francis Community Hospital on July 31, 2012 as per a copy of birth certificate attached via entry Number xxxx. Consequently, after the minor was conceived, the biological parents separated and the minor was left under the care of her father. However, the child's father was not in position to solely take care of the minor daughter since she was an infant and thus took her to his sister PMO (2<sup>nd</sup> Applicant herein) and brother in law PMM2 (1<sup>st</sup> Applicant herein).
6. It is stated that the applicants have been taking care of the minor by meeting all her needs appropriately and accepting her as their own daughter.
7. It is further noted that the biological parents approached the Kenya Children's Homes Adoption Society where they made clear their intention of offering their daughter for adoption, a lengthy counselling session was offered to them and taken through a memorandum headed which they understood and signed the "Certificate of Acknowledgment" as a confirmation of their understanding as well as signing affidavits on February 6, 2023 before a Commissioner for oaths giving their final consents towards this adoption application.
8. The child was then freed for adoption by the Kenyans Children's Homes Adoption Society on February 15, 2023. A copy of the Certificate Declaring the Child free for adoption Serial Number xxxx and Report dated February 15, 2023.
9. According to the report by Guardian Ad litem dated June 2, 2023 the Applicants are stable and mature qualified individuals. The child has bonded well with the Applicants in the years they have lived together. The Applicants are of good healthy and have no criminal records or any record of child mistreatment.
10. Subsequently, the Applicants are financially and emotionally capable of providing the child with care, protection and education.
11. Pursuant to Section 156(1) of the [Children Act, 2022](#), the report from the Kenya Children's Homes Adoption Society Assistant Director observed that the Applicants met the legal requirements for Kinship adoption as provided by the [Children Act 2022](#) as they are financially secure to take good care of the child and the same has been confirmed by the home visit and seeing that the child is available for adoption and Applicants have met the requirements for the same, hence Society recommends this adoption.
12. It is not in dispute from the viva voce evidence in Court where the minor has bonded well with the Applicants as she stated that the Applicants provides food and cares for her needs, pay her school fees. She went ahead by stating that they have a house help who helps with laundry.
13. The proposed legal guardian, JBO (a sister to the 2<sup>nd</sup> Applicant) and sister in law to (1<sup>st</sup> Applicant). She has two children. She stated that she will assume full responsibility in the event the Applicants



are unable to fulfil their obligations. She confirmed that she has consented to appointment as the legal guardian of the child.

14. This is a kinship adoption where the evidence provided proves that the Applicants have fulfilled all the legal requirements for the adoption of the child envisaged under Section 184 of the Children's Act Cap 419.

#### **Determination**

15. All the statutory reports filed in respect of this proposed adoption recommend that this Court allows the Applicants to adopt the child. This Court has satisfied itself that the Applicants are 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 Applicants have 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 Applicants.
16. The Child was present in court and the Court observed that she appeared well groomed and bonded well with the Applicants.
17. This court is of the opinion that this Adoption would be in the best interest of the child and allows the Applicants' application that;
  - a. The Applicants, PMM2 and PMO are hereby allowed to adopt Baby PMM1.
  - b. Henceforth, the child shall be known as AMM.
  - c. Her date of birth shall be July 31, 2012.
  - d. She is presumed to be a citizen of Kenya by birth.
  - e. JBO is hereby appointed as legal guardian of the child should any eventuality arise.
  - f. This Court directs the Registrar 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 M NYAUNDI**

**HIGH COURT JUDGE**

**In the presence of:**

Sylvia Court Assistant

