



**In re AM aka AMB (Baby) (Adoption Cause E227 of 2022)  
[2023] KEHC 23251 (KLR) (Family) (29 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 23251 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E227 OF 2022  
PM NYAUNDI, J  
SEPTEMBER 29, 2023  
IN THE MATTER OF THE CHILDREN'S ACT, 2001  
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY AM A.K.A AMB**

**JUDGMENT**

1. The Applicant, MIB vide Originating Summons dated 8<sup>th</sup> December 2022 has made an application for the adoption of baby AM a.k.a. AMB, the child herein. The applicant is not married. She is the maternal grandmother to the minor.
2. The matter proceeded for hearing via viva voce evidence on the Teams virtual platform on the 15<sup>th</sup> of June 2023.
3. The Applicant is Kenyan Citizen and of the Christian faith. She avers that she has the financial means and capability to take care of the Child. She is a business woman. The minor has been under her care since 18<sup>th</sup> October 2014 when he was born.
4. The whereabouts of the biological father of the minor are not known. He has a close bond with the grandmother. She has explained to the minor that she is adopting him. For this reason his consent is dispensed with.
5. AMB, the minor was present in court. He is 8 years old and attends school at [particulars withheld] Academy. He is currently in Grade 3. He lives with his grandmother and he is happy to live with her. He is happy to be adopted by his grandmother.
6. EMO, she is the Guardian Ad Litem. After visiting and interviewing the Applicant and the minor she prepared her report dated 16<sup>th</sup> June 2023 in which she recommends the adoption.
7. Pauline Mumoshe is a representative from Kenya Children's home. Vide their certificate serial number xxxx they declared the minor free for adoption. They confirm that the child's mother is a daughter to the Applicant and she has voluntarily offered her child for adoption.



8. LGM, is the biological mother of the minor. She is a business woman. She has given her consent for the Applicant to adopt the minor. She understands the implications of an adoption and specifically that she is relinquishing her parental rights to the Applicant.
9. The father of the minor has not been in touch ever since the child was born and his whereabouts are not known. She has offered herself to be the Legal Guardian of the Child. She is married to EMN who has filed his consent to be Legal Guardian to the minor.
10. MA is the representative from the Directorate of Children Services. She confirms that her colleague Carolyne Olilo prepared report dated 23<sup>rd</sup> June 2023 in which they have recommended the Application.
11. After carefully assessing the records herein, I am satisfied that the applicant has fulfilled all the legal requirements relating to the Child's adoption. This is a kinship adoption. Under Section 186 of the *Children Act*, 2022 provides. The court may make an adoption order on application by-
  - (1)
    - (a) Sole applicant; or
    - (b) Two spouses jointly.
  - (2) The court shall not make an adoption order in any case unless-
    - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
    - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
  - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
12. The Applicant is 50 years.
13. Article 53 of *the Constitution* of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

A Child's Best interests are of paramount importance in every matter concerning the child.
14. This principle is restated Under Section 8 of the *Children Act* , 2022 which provides best interests of the child. In all actions concerning children, whether undertaken.
  - (1) By public or private social welfare institutions, courts of the law, administrative authorities, or legislative bodies-
    - (a) The best interests of the child shall be the primary consideration;
    - (b) The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.
15. Section 194 (1) (c) of the Act also requires that if the adoption order is made the order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;
16. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the Applicant.



17. Accordingly, I allow the prayers sought in the Originating Summons dated 8<sup>th</sup> December 2022 and order as follows:

- I. The Applicant MIB be allowed to adopt baby AM a.k.a AMB
- II. The Child is to be known as AMB
- III. The Child be presumed to be a Kenyan citizen by birth born on the 18<sup>th</sup> October, 2014 and his place of birth is Kayole Hospital, Nairobi County.
- IV. LGM and EMN are hereby appointed as legal guardians of the Child
- V. The Registrar is hereby directed to enter this adoption into the Register of Adopted Children.
- VI. The Director Immigration is authorized to issue the child with a Kenyan passport
- VII. The Guardian Ad litem is discharged.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 29<sup>TH</sup> DAY OF SEPTEMBER, 2023.**

**P M NYAUNDI**

**HIGH COURT JUDGE**

**In the presence of:**

Sylvia Court Assistant

