



**In re LK alias J (Baby) (Adoption Cause E101 of 2023)
[2023] KEHC 24849 (KLR) (Family) (27 October 2023) (Judgment)**

Neutral citation: [2023] KEHC 24849 (KLR)

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

FAMILY

ADOPTION CAUSE E101 OF 2023

PM NYAUNDI, J

OCTOBER 27, 2023

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF BABY LK ALIAS J

IN THE MATTER OF

PMW 1ST APPLICANT

EMN 2ND APPLICANT

JUDGMENT

1. The Applicants, PMW (“the 1st Applicant”) a Legal Manager at [Particulars withheld] Bank and EMN (“the 2nd Applicant”), an Administrator at [Particulars withheld] Ltd, seek by their originating summons and affidavit dated May 31, 2023 respectively, to be allowed by this Court to adopt Baby LK alias J (hereafter “the child”), the minor to be known as CNM, the Registrar General be directed to enter this adoption into the Register of Adoptions, MMW and LM be appointed as the legal guardians of the child and the child be presumed to be born in Kenya.
2. The applicants are husband and wife. The applicants got married in 2017 in a customary ceremony and later formalized their marriage in 2022 at the Registrar’s office in Nairobi. Both Applicants live together in Rironi, Limuru.
3. The applicants were once married and their marriages ended in divorce. The first Applicant has been blessed with two children from his first marriage a son, SWM (13 years) and a daughter SWM (9 years). The 1st Applicant supports the children who live with their mother.



4. Through their application, the Applicants visited Little Angels Children's Home and were touched by the suffering of the parentless state of the minors in that children's home which motivated their strong desire to adopt. They have space in their home and in their hearts for children.
5. The matter proceeded for hearing via *viva voce* evidence on the Teams virtual platform on the October 12, 2023 where the applicants stated that the minor has been in their custody for 10 months therefore been able to recognize them as their parents and they have means to provide for the minor and further stated that they assume full parental responsibilities.
6. They confirmed that having baby LK in their life is the greatest dream come true because they had for a long time desired to offer love and a home to a baby. They want to give a child who does not have a home and loving parents a sense of belonging.
7. The child (male) who is the subject of the present adoption proceedings was born on April 7, 2022 at Mukurweini Hospital in Nyeri to ENK of ID No. xxxxxxx. The child was offered by his mother for adoption after she felt that she did not have financial ability to raise the child.
8. She averred that she was already a mother of three children and her husband had disappeared leaving her to fend for them alone. After she was taken through adoption process by Change Trust, she consented for adoption letter dated April 7, 2022 as well as a phone call made to her on August 28, 2023 where she confirmed that she is the mother and she had willingly given out the child due to financial constraints.
9. It is at that juncture that on April 13, 2022 the child was committed to New Life Home Trust for safety under protection and care case No. E012/2022 and finally declared free for adoption by Change Trust on July 19, 2022.
10. The child was placed in the custody of the Applicants on December 22, 2022 for mandatory bonding prior to adoption where he has since then been in the continuous custody and care of the applicants.
11. In an application filed on May 31, 2023 the applicants sought among others, orders from this Court that PG be appointed as the child's guardian ad litem, and that the Director of Children's Services be ordered to investigate the suitability of the applicants to adopt the child and submit a report in 45 days.
12. The applicants also sought to have the Court appoint MMW and LMN as the child's legal guardians. They further sought for an order that upon adoption the child be known as CNM, be presumed to be born in Kenya and the Registrar General be directed to enter this adoption into the Register of Adoptions.
13. On October 29, 2023, this Court issued an order appointing PG as the child's guardian ad litem, and further directing the Director of Children's Services to file their respective reports in Court.
14. Pursuant to Section 102 of the [Children Act](#), before this matter came up for hearing Little Angels Network, prepared and filed in Court a favourable report in respect of the proposed adoption of the child by both applicants. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services, and this report was similarly in favour of the proposed adoption.
15. The guardian ad litem, PG, also filed the statutory report in which she noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.
16. All the statutory reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this court allows the applicants to adopt the child. This court



has evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements relative to the adoption of the child.

17. The consent of the biological mother of the child was dispensed with since the child was abandoned at birth. The home visits by the guardian ad litem, the adoption society and the Director of the Children's Services established that the Applicants have the financial and emotional capability to provide for the upkeep and education of the child.
18. This court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with them. The child considers the Applicants to be her parents.
19. This Court is alive to the jurisdiction of the High Court vide article 165 Constitution of Kenya 2010 and section 183(1) Children Act 2022. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, section 8 of Children Act 2022 and the UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.

Determination

20. On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Hence, this Court allows the Applicants' application.
 - i. The Applicants, PMW and EMN are hereby allowed to adopt Baby LK Alias J.
 - ii. Henceforth, the child shall be known as CNM.
 - iii. His date of birth shall be April 7, 2022.
 - iv. His place of birth shall be Nairobi County.
 - v. He is presumed to be a citizen of Kenya by birth.
 - vi. MMW and LMN shall be the legal guardians of the child should such eventuality arise.
 - vii. This Court directs the Registrar General to duly enter this order in the Adoption Register.
 - viii. The Guardian Ad Litem is discharged

It is so ordered.

DELIVERED DATED & SIGNED IN OPEN COURT ON 27TH OCTOBER, 2023.

P. NYAUNDI

JUDGE

In presence of: -

Ms. Nyaituga h/b for Miss Kemunto for the Applicants

Sylvia Court Assistance

