



REPUBLIC OF KENYA



**In re Baby DRI (Adoption Cause E015 of 2021)  
[2023] KEHC 25747 (KLR) (22 November 2023) (Judgment)**

Neutral citation: [2023] KEHC 25747 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
ADOPTION CAUSE E015 OF 2021  
MW MUIGAI, J  
NOVEMBER 22, 2023  
IN THE MATTER OF CHILDREN ACT 2022  
AND  
IN THE MATTER OF BABY DRI**

**JUDGMENT**

**Introduction**

1. This Court’s judgment delivered on 15<sup>th</sup> day of March, 2022 granted the Applicant JNK (now deceased) custody of the minor Baby DRI through Adoption proceedings.
2. The Adoptive parent JNK (now deceased) herein had approached this Court vide exparte Originating Summons dated 16<sup>th</sup> March, 2021 seeking to be allowed to adopt Baby RA hereinafter referred to as Baby DRI.
3. SMK and PNM were appointed as the Legal Guardians of the minor Baby DRI.

**Appointment of the proposed Legal Guardians**

4. On 12/10/2023, Ms Emily Kimanzi, the Machakos Town Sub- County Children’s Officer filed application on 25/9/2023 and sought appointment of Legal Guardians of the child subject of adoption in the Judgment of 15/3/2022; Baby DRI. Ms Emily Kimanzi appeared in Court on 12/10/2023 and she informed this Court that the Adoptive parent JNK passed on, on 26<sup>th</sup> June, 2023 vide Certificate of Death Serial No \*\*\*\* issued at Machakos on 7<sup>th</sup> August, 2023.
5. The Children’s Officer further told the Court that the Legal Guardians SMK and PNM (brother and sister in law to the deceased) are not able to take care of the child DRI due to their old age hence the child is left without care and protection due to her tender age.
6. The Children Officer informed the Court that the children Department is proposing JMK (54 years of age) of ID No \*\*\*\*\* - Phone No \*\*\*\*\* and JMK (48 years old) of ID No \*\*\*\*\* – Phone No \*\*\*\*\* (brother in law and sister to the deceased) to take over as Legal Guardians of the child in place of the



- previous Legal Guardians. They have 3 biological children BK,TK and CK who have consented to the adoption of the child by their parents.
7. The minor Baby DRI subject of these proceedings will be taken to Kilifi County to the Legal Guardians home. Emily Kimanzi further told the Court that their office will pursue the estate of the Adoptive mother JNK (deceased) and place the child in Inua Jamii Transfer Program. JMK's (one of the proposed legal guardians) employers are willing to support Baby DRI's education.
  8. Ms Kimanzi visited the home of the new proposed Legal Guardians at Kilifi on 12/08/2023. They have built a home in Mtwapa and the deceased ran a school Golden Key Academy. The Children Officer interviewed the Prospective Legal Guardians who confirmed that the deceased lived with them before getting married and could not children. The Officer later prepared a Report dated 25/09/2023 and filed it in Court on the same date.
  9. This Court on 23/10/2023 conducted physical/virtual proceedings on the proposed legal Guardians. JMK told the Court that she works as an Operations Manager in Hughes Restaurant in Mtwapa Kilifi. JMK told the Court that he works as a long distance driver. They stated that the Adoptive parent JNK (now deceased) was their sister. That they are ready and willing to take over the full responsibility of the minor Baby DRI.
  10. The Children's Officer Report dated 25/09/2023 in respect of the Appointment of the Guardians shows that they are financially stable. JMK works as a Driver at Motrex Limited earning an income of Kshs 35,000/- per month while JMK works as a Hotelier earning an income of Kshs 120,000/-per month.
  11. They have 3 biological children namely BK aged 25 years, TK aged 21 years and CK aged 17 years. The extended family have consented to this arrangement since their brother S and his wife P who were previously appointed as Legal Guardians are not able to give the tender care the minor needs due to her age.
  12. The proposed Legal Guardians are pursuing the estate of the minor's mother so as to have the child inherit the estate and are undertaking the Succession process to ensure that the estate is secured. They live in a 2 bedroomed well-furnished house constructed in their own plot at Mtwapa with all the necessary utilities. They have built another house nearby which is occupied by their sons and an extra room which they rent out. They also own a plot at their rural home in Mwala and do farming in the same area.
  13. The appointment of the proposed Legal Guardians is recommended as it is in minor's best interests and due to tender age the child requires care and protection and she can remain within the family set-up as opposed to being placed in a care institution.

## **Disposition**

14. On the basis of a careful examination of the documents presented before this Court in the application for Appointment of Legal Guardians, this Court has formed the opinion that it would be in the best interest of the child to be placed with the proposed Legal Guardians. Hence, this Court allows the Applicants application.
15. The proposed Legal Guardians JMK of ID No \*\*\*\*\* - Phone No \*\*\*\*\* and JMK of ID No \*\*\*\*\* – Phone No\*\*\*\*\* be appointed as the Legal Guardians of the baby DRI.
16. This Court directs the Registrar General to duly enter this order in the Adoption Register.



17. That the Directorate of Children Services to carry out supervision on the said adoption and file a report on the ongoing safety/security within one year of the Adoption in the best interest of the child.

It is so ordered.

**DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2023 (PHYSICAL/VIRTUAL CONFERENCE).**

**M. W. MUIGAI**

**JUDGE**

