



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby A (Minor) (Adoption Cause E10 of 2021)
[2022] KEHC 246 (KLR) (31 March 2022) (Judgment)**

Neutral citation: [2022] KEHC 246 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E10 OF 2021**

MW MUIGAI, J

MARCH 31, 2022

JUDGMENT

1. The Applicants, RNN (“the 1st Applicant”) and MMM (“the 2nd Applicant”), sought by their application to be allowed by this Court to adopt Baby A aka RMN (hereafter “the child”). The Applicants are husband and wife. They solemnized their marriage at Registrar’s Office Machakos as attested by marriage certificate attached.
2. The 1st Applicant is a teacher by profession and 2nd Applicant is engaged in farming. They are financially stable with sufficient resources to bring up a child adequately.
3. The Applicants have 1 child/son MSNN who was adopted vide Adoption Cause 10 of 2018 before Hon G.V Odunga J in 9/10/2018. They are sympathetic to the needs of needy children and therefore wish to provide a home for a needy child. They also want to expand their family through adoption.
4. The child who is the subject of the present adoption proceedings was born on 24/6/2019, he was found abandoned at Uthuru Area at the Playground of [Particulars Withheld] Primary School by a Good Samaritan. Police Officers from Kabete Police Station went to the scene and rescued the newborn child and took him to Pumwani Maternity Hospital for medical attention. The incident was booked vide OB x/xx/x/2019 at 0250 HRS; the extract is attached to the Application.
5. The child remained hospital until he was discharged to Thomas Barnados Home on 9/8/2019 vide Children Officer Nairobi letter and Nairobi Children Court Care & Protection Case xx of 2020 for 3 years in accordance with Section 119 of the *Children Act*. A copy of Committal document is annexed to the Application.
6. The Police conducted investigations and efforts to trace the family of the child or anyone who claimed the child were futile. Kabete Police Station wrote final letter dated 17/2/2020 to that effect.
7. The minor was freed for adoption by Kenya Children Home Adoption Society on 5/8/2020 vide Certificate No xxxx pursuant to Section 156(1) of the *Children Act*. After the Case Committee of 16/1/2019 and review visits conducted, the child was placed in the custody of the Applicants on



- 1/9/2020 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicants.
8. In an Originating Summons application filed on 8/6/2021, the Applicants sought among others, orders from this Court that CKW be appointed as the child's guardian ad litem, and that the Director of Children's Services was to investigate the suitability of the Applicants to adopt the child and submit a report. CK was appointed Guardian ad Litem on 27/7/2021.
 9. The Applicants also sought to have the Court appoint the SWM and SWN sister to RNN as Legal Guardians to the child.
 10. The Applicants further sought an order that upon adoption the child be known as RMN.
 11. Pursuant to Section 156(1) of the *Children Act*, Kenya Children's Homes, the relevant adoption society, prepared and filed in Court a favorable 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 favor of the proposed adoption. The guardian ad litem, CKW, also filed the statutory report pursuant to Section 160(2) of the *Children Act* in which she noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.
 12. 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 joint 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.
 13. The consent of the biological mother of the child is waived as the child was found abandoned and the matter reported to Police. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. The Applicants have adopted their 1st child MSNN whom the Adoption Agency confirmed from review meetings and visits the Applicants have performed well and the child adapted and adjusted well.
 14. 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 financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. 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.

Disposition

1. 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.
2. The Applicants, RNN & MMM are hereby allowed to adopt Baby A. Henceforth, the child shall be known as RMN.
3. The child's date of birth is 24/6/2019 and the place of birth shall be Nairobi County. The child is a Kenya Citizen by birth and entitled to all rights of a Kenyan citizen.
4. SWM and SWN shall be the legal guardians of the child should such eventuality arise.
5. This Court directs the Registrar General to duly enter this order in the Adoption Register.



6. The guardian ad litem is hereby discharged.

It is so ordered.

**DELIVERED DATED & SIGNED AT MACHAKOS THIS 31ST DAY OF
MARCH OF 2022 (VIRTUAL CONFERENCE)**

M.W. MUIGAI

JUDGE

