



REPUBLIC OF KENYA



KENYA LAW
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**In re RM alias Baby HSO (Minor) (Adoption Cause E20 of 2021)
[2022] KEHC 267 (KLR) (31 March 2022) (Judgment)**

Neutral citation: [2022] KEHC 267 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E20 OF 2021
MW MUIGAI, J
MARCH 31, 2022
IN THE MATTER OF THE CHILDREN ACT, 2001
AND
IN THE MATTER OF RM ALIAS BABY HSO (MINOR)
JMM.....1ST APPLICANT
SMM.....2ND APPLICANT**

JUDGMENT

1. The Applicants, JMM (“the 1st Applicant”) and SMM (“the 2nd Applicant”), sought by their application, Originating Summons filed on 22/10/2021, to be allowed by this Court to adopt RM alias baby HSO (hereafter “the child”).
2. The Applicants are husband and wife married in 2002 as per attached copy of marriage certificate marked JS-5. The 1st Applicant is a teacher and Head Teacher at [Particulars Withheld] Primary School, Kitui. The 2nd Applicant is a housewife and runs a small poultry business. Both Applicants reside at [Particulars Withheld], Machakos County.
3. The Applicants produced and annexed letters of recommendation of Guardian ad Litem and Legal Guardian, copies of IDs, medical reports certificates of good Conduct, 1st Applicant’s Payslip and Bank Statements in support of their application.
4. The Applicants 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.
5. The child who is the subject of the present adoption proceedings was born on 22nd July 2019, and was abandoned at [Particulars Withheld] County Hospital by his mother, HSO. The child’s mother absconded and left the child at the hospital.
6. The matter was reported at Kenyatta Police Post on 25/7/2019 vide OB No xxxx. The Sub County Children Officer secured a place for the child and was admitted at New Life Home Trust on 31/7/2019.



7. On 6/11/2019 Baby RM was committed to New Life Home Trust through Children Court Nairobi; Protection & Care Case 1405 of 2019 as required by Section 119 of the *Children Act*.
8. By letter of 24/6/2020, the OCPP Kenyatta Police Post, confirmed that no one came to claim the baby, including mother of the child and/or family.
9. On 13/11/2020 during the Case Committee meeting at/by Buckner Kenya Adoption Services, Adoption Agency, deliberated on the matter and declared the child free for adoption as per Certificate No xxx pursuant to Section 156 (1) of the *Children Act*.
10. The child was placed in the custody of the Applicants on 12th May 2014 for mandatory bonding prior to adoption. The child has since then been in the continuous custody and care of the Applicants.
11. In an application filed on 6/10/2021, the Applicants sought among others, orders from this Court that MNM, ID xxxxxxxx to be appointed as the child's guardian ad litem. On 8/12/2021, MNM was appointed for purpose of the adoption process and the Director of Children's Services was to investigate the suitability of the Applicants to adopt the child and submit a report.
12. The Applicants also sought to have the Court appoint JMM & AKM as Legal Guardians to the child in the event of death or incapacity of Applicants to provide parental care to the child before the child attains full age and is fully self-reliant. The Legal Guardians signed written Consents to take up the responsibility of the child in case of the eventuality.
13. On 3/2/2022, the Court was presented with the following reports;
Pursuant to Section 156(1) of the *Children Act*, Buckner Kenya Adoption Services through Ms Peris Kahara prepared and filed in Court the Report on the investigative background of the child and recommendation of the Applicants as adoptive parents of the child and presented a favorable report in respect of the proposed adoption of the child by both Applicants.
14. Another report in respect of the proposed adoption of the child by the Applicants was prepared by the Director of Children's Services through Ms Emily Kimanzi, and this report was similarly in favor of the proposed adoption.
15. The Guardian Ad Litem presented the Report of 31/1/2022 and confirmed visits to the Applicants home and confirmed the child bonded well with the Applicants. The extended family provided support for the adoption and recommended the adoption. The statutory report made under 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.
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 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.
17. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. 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. On the basis of 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 on the following terms;

DISPOSITION

- a. The Applicants, JM and SMM are hereby allowed to adopt Baby RM alias baby HSO.
- b. Henceforth, the child shall be known as RMM.
- c. The child is a Kenyan citizen by birth born at [Particulars Withheld], Nairobi County.
- d. The date of birth shall be/is 22nd July 2019.
- e. JMM & AKM shall be the legal guardians of the child should such eventuality arise
- f. This Court directs the Registrar General to duly enter this order in the Adoption Register.
- g. The guardian ad litem is hereby discharged.
- h. It is so ordered.

DELIVERED DATED & SIGNED IN OPEN COURT ON 31ST MARCH 2022 (VIRTUAL CONFERENCE)

M.W. MUIGAI

JUDGE

