



REPUBLIC OF KENYA



KENYA LAW
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**In re JAO (Minor) (Adoption Cause E037 of 2021)
[2022] KEHC 12025 (KLR) (Family) (21 April 2022) (Judgment)**

Neutral citation: [2022] KEHC 12025 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E037 OF 2021
LA ACHODE, J
APRIL 21, 2022
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION
OF JA (MINOR)**

IN THE MATTER OF

EMO APPLICANT

JUDGMENT

1. The Applicant, EM, moved this court vide an Originating Summons dated 16th April 2021 seeking the adoption of Baby JA, a minor, as a sole male Applicant. The Applicant is also seeking to adopt Baby LK in Adoption Cause E 038 of 2021 and Baby DO in Adoption Cause E 039 OF 2021, both being siblings to the subject minor in this cause.
2. The minor in this matter was born on 21st June 2015 evinced by the annexed minor's Certificate of Birth of Serial No. 72212XX. LON, the minor's biological father works a casual driver with [particulars withheld] Sacco and ENO, her biological mother, is not economically engaged.
3. The pleadings indicate that the Applicant is a businessman, self-employed in a Transportation Company. He resides in Donholm Estate and professes the Christian faith.
4. Before the hearing of the adoption application, the KKPI Adoption Society prepared and filed a report dated 15th November 2021 and issued a Certificate Serial No. 813 declaring the child free for adoption. The court also appointed guardian ad litem F B, who gave his consent dated 16th April 2021 and GMN swore an Affidavit confirming the guardian's fitness as such.
5. An officer from the Directorate of Children Services conducted home visits to the Applicant's home in Donholm Estate and prepared a report dated 17th November, 2021. The report established that



the Applicant is financially and emotionally capable of providing for the upkeep and education of the minor. The officer noted that the Applicant and the minor had built a solid familial bond, and the minor was delighted about the idea of the Applicant being his prospective adoptive parent. The report indicated that the Applicant lives in a three-bedroom house and that the adoptive child and his male sibling shared one bedroom, but the minor slept individually in his bed. The officer noted that the Applicant and the minor had built a solid familial bond.

6. This is a local kinship adoption, and from the record, the Applicant has fulfilled all the legal requirements relating to the child's adoption. EON, the minor's biological mother, consented to the minor's adoption by the Applicant vide the letter dated 29th October, 2021 and she swore an Affidavit to that effect. LNO, the minor's biological father, consented to the adoption of the minor by the Applicant vide consent dated 29th October, 2021,
7. In law, in any matter concerning a child, the best interests of the child are what is of paramount importance as provided for under Article 53(2) of the Constitution of Kenya 2010. The Constitution of Kenya 2010 categorically provides that:

“A child's best interests are of paramount importance in every matter concerning the child.”

This principle finds a firm place in the law in Section 4(2) and 4(3) of the Children's Act No. 8 of 2001 and is echoed by Article 4 of the African Charter on the Rights and Welfare of the Child which provides that:

“In all actions concerning the child undertaken by any person or authority, the best interests of the child shall be the primary consideration.”

8. In the upshot 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. Reasons wherefore, I allow the prayers in the Originating Summons dated 16th April, 2021 as follows:
 - i. The Applicant EMO be and is hereby allowed to adopt JAO, and the child shall be known as JAO after the adoption.
 - ii. FBO be and is hereby appointed Legal Guardian of the child in case of incapacitation or death or the Applicant.
 - iii. The minor's date of birth 21st June, 2015.
 - iv. The child was born in Kenya of Kenyan parents and is, therefore, a Kenyan by birth.
 - v. The Registrar General be and is hereby ordered to enter the name of the child in the Adopted Children's Register.
 - vi. The Director of Immigration is hereby authorized to issue the child with a Kenyan Passport.
 - vii. The *guardian ad litem* is hereby discharged.

SIGNED, DATED AND DELIVERED IN VIRTUAL COURT THIS 21ST DAY OF APRIL, 2022.

.....

L.A. ACHODE

HIGH COURT JUDGE

In the presence of.....Advocate for the Applicants.

