



**In re of Child BDS (Child) (Adoption Cause 187 of 2018)
[2022] KEHC 11374 (KLR) (Family) (31 May 2022) (Judgment)**

Neutral citation: [2022] KEHC 11374 (KLR)

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

ADOPTION CAUSE 187 OF 2018

AO MUCHELULE, J

MAY 31, 2022

IN THE MATTER OF

**GMN 1ST APPLICANT
FMM 2ND APPLICANT**

JUDGMENT

1. The applicants GMN and FMM are a Kenyan couple aged 41 years and 36 years, respectively. The 1st applicant is an administrative officer with [Particulars Withheld] while the 2nd applicant is an Administration Police Officer. They solemnized their marriage on the December 15, 2012 at the St. Paul's Catholic Chapel in Nairobi County. The couple does not have any biological children. On the December 18, 2018, they filed this originating summons seeking to adopt Child BDS alias JBM.
2. Child BDS alias JBM was born to MSM, a minor then, on the 10th November 2017 at Iguhu County Hospital. The child was as a result of an incestuous relationship between siblings. Upon offering the child up for adoption, the mother was taken through the process of adoption and a certificate of acknowledgement was signed. Consents for adoption were initially given by the siblings' parents as both siblings were minors. The child was temporarily placed at Springs of Life Children's Home. He was formally committed to the Home by the Kakamega Chief Magistrate's Court in Protection and Care Case No. 8 of 2018 on the March 6, 2018. On April 18, 2018 the child was declared free for adoption and Certificate No. xxxx issued by the Kenya Children's Home Adoption Society. The applicants have been with the child since July 13, 2018 when the child was placed with them for foster care.
3. On February 14, 2019 the court appointed Everlyn Mutunga as the guardian ad litem and ordered her and the Director of Children Services to separately carry out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed. Both recommended the applicants to be allowed to adopt the child. The reports found that the applicants were socially,



emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with them.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their capability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. Consents by the biological parents have been sought and availed.
5. Having been satisfied that all the legal requirements for a local adoption under the *Children Act* have been met, the following orders shall issue:-
 - a. the applicants GMN and FMM are hereby allowed to adopt Child BDS alias JBM.;
 - b. Child BDS alias JBM shall henceforth be known as JBM;
 - c. the child's date of birth shall be November 10, 2017 and shall be presumed Kenyan citizen having been born at Iguhu County Hospital, Kakamega County in Kenya;
 - d. TKM is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicants before he is of full age and fully self-reliant;
 - e. the Registrar-General is directed to enter this adoption in the Adopted Children Register; and
 - f. the guardian ad litem is hereby discharged.

DATED AND DELIVERED ELECTRONICALLY AT NAIROBI THIS 31ST DAY OF MAY, 2022.

A.O. MUCHELULE

JUDGE

