



REPUBLIC OF KENYA



**In re RKM (Child) (Adoption Cause E077 of 2021)
[2022] KEHC 10581 (KLR) (Family) (31 May 2022) (Judgment)**

Neutral citation: [2022] KEHC 10581 (KLR)

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

FAMILY

ADOPTION CAUSE E077 OF 2021

AO MUCHELULE, J

MAY 31, 2022

IN THE MATTER OF

CWM APPLICANT

JUDGMENT

1. The applicant CWM is 46 years of age and has never been married. She is a retail centre representative working with BO Company in Nairobi. She does not have any child owing to her medical condition. She filed this originating summons dated June 11, 2021 seeking to formally adopt the child RKM.
2. The child RKM was born on May 29, 2017 at the Coast General Hospital. She is said to have been abandoned by her mother at the facility on June 1, 2017. The matter was reported at the Makupa Police Station vide OB No XX/X/X/2XXX by a social worker at the hospital namely Thomas Nyariki. The Sub-County Children's Office in Mvita referred the child's matter to Children Welfare Society of Kenya (CWSK) Mji wa Salama on June 15, 2019 for temporary placement for care and safety. The child was formally placed to CWSK Mji wa Salama by the Children's Court in Tononoka vide Protection and Care No 439 of 2017 on August 18, 2019 for a period of 3 years. CWSK made a follow up with the Coast General Hospital on whether there had been any person who may have come to claim the child, the hospital did confirm that no person came forward to make such claim. The police efforts to trace the parents or relatives of the child were not successful as evidenced in their two letters. CWSK indicated that they did not receive any claim of the abandoned minor child despite the efforts to trace the child's family through media tracing by publishing the same in a newspaper of nationwide circulation. The child was declared free for adoption by Child Welfare Society of Kenya on May 21, 2018 vide certificate serial number 0956. The child has been with applicant since June 7, 2018 when she was placed into her foster care.
3. On November 4, 2021 GWK was appointed by this court as the guardian ad litem. She and the director of children services were ordered to separately carry out a social inquiry on the applicant to determine her suitability to adopt the child. The two reports were filed. Both recommended the applicant to



be allowed to adopt the child. The reports found that the applicant was socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child had bonded well with her.

4. Considering that the child has not known any other home and parents since 2017, and considering that it's best interests is the paramount concern of this court, I will allow the adoption. The applicant has demonstrated her capability to provide a conducive home and family environment in which the child will grow and develop. She will assume all parental rights and obligations of the biological parent of the child once adopted, and shall treat her as if she was born to her. She has 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 her property. The applicant shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. The consent of the mother of the child is hereby dispensed with as she was found abandoned.
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 applicant, CWM is hereby allowed to adopt the child RKM;
 - b. the child RKM shall henceforth be known as OAW;
 - c. the child's date of birth shall be May 29, 2017, and shall be presumed to be a Kenyan citizen having been found abandoned at the Coast General Hospital in Mombasa in Kenya;
 - d. SWM is hereby appointed as the child's legal guardian in the event of the death or incapacity of the applicant before she 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

