



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re LL (Minor) (Adoption Cause E004 of 2021)
[2022] KEHC 15081 (KLR) (20 June 2022) (Judgment)**

Neutral citation: [2022] KEHC 15081 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
ADOPTION CAUSE E004 OF 2021
SN MUTUKU, J
JUNE 20, 2022
IN THE MATTER OF THE CHILDREN ACT (ACT NO. 8 OF 2011)
AND
IN THE MATTER OF L. L. (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION
RMH1ST APPLICANT
LEN2ND APPLICANT**

JUDGMENT

1. The Applicants got married on January 3, 2015 in Office of the Registrar of Marriages in Nairobi. They have attached a marriage certificate No. xxxx. They are parents to two children, both boys, namely L. aged 7 years and L. aged 4 years. The minor, subject of these adoption proceedings was born on March 29, 2007 to L. E. N, the 2nd Applicant through a relationship between the 2nd Applicant and a Tanzanian who left for his home country after the 2nd Applicant conceived. The 2nd Applicant lost contact with the father and he has not been in the life of the minor.
2. By an Originating Summons dated August 30, 2021, the Applicants seek the following orders:
 - i. That the Applicants, R. M. H and L. E. N, be allowed to adopt the child currently identified as L. L.
 - ii. That henceforth, the child be renamed as L. L. H.
 - iii. That ARN and JOS be appointed as Legal Guardians of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - iv. That the Guardian Ad Litem be discharged.



- v. That the Registrar General be directed to make appropriate entries in the Adopted Children's Register.
 - vi. That this Court do issue such further orders as are in the interest of justice.
3. The Applicants have supported the Originating Summons with a Statement and an affidavit signed by both application and to which they have attached various documents explaining the circumstances leading to this Application. I have read the two documents and have understood the contents.
 4. From the contents of these documents, I have learned that the minor is the biological son of the 2nd Applicant while the 1st Applicant has acquired parental responsibility over the child as a step-father. The minor was born on March 29, 2007 at South B Hospital.
 5. The 1st Applicant is a British Citizen, holder of British Passport No. xxxx, in Kenya under a Dependent's pass No. xxxx while the 2nd Applicant is a Kenyan Citizen holder of Kenya National Identity Card No. xxxx. The family lives in [particulars withheld] County. The 1st Applicant is aged at 59 years as at the time of filing this Application in 2021. The 2nd Applicant is aged 35 years as at the same time. They are within the stipulated age bracket acceptable for adoption.
 6. This is kinship adoption as the 2nd Applicant is the biological mother of the minor. The 1st Applicant is divorced from K. L. H since July 27, 2009. There is a son from that union, Master N. J. R. H born on April 4, 1999.
 7. Both applicants are Christians. They worship at [particulars withheld] in Ngong. They are healthy individuals with no known criminal record. They live in a five bedroomed bungalow on a half an acre piece of land with own compound. The house has adequate room for the children and the minor sleeps in his own bedroom. The minor attends [particulars withheld] High School in boarding but lives with the family during school holidays.
 8. All necessary consents, from 1st Applicant's son, the minor himself, as well as the little brothers of the subject, have been obtained.
 9. On November 29, 2021, this court appointed JN, of ID No. xxxx as Guardian ad Litem and directed that he investigates the suitability of the applicants to adopt the minor and file a report to that effect. He filed that report on February 16, 2022. It is a favourable report and recommends that the applicants be allowed to adopt the minor.
 10. Likewise, the Department of Children Services, through the County Coordinator Children Services, Kajiado County, filed a report on 1st March 2022. The report shows that the applicants have fulfilled all legal requirements as adoptive parents for local adoptions as provided for under Section 158 (1) (a) of the *Children's Act*. The report shows that the minor is a "child who may be adopted" as provided under section 157 since he is a resident of Kenya and has been in the continuous care of the applicants for more than 3 consecutive months preceding the adoption application. The report recommends that this honourable court does allow this adoption.
 11. From the records in the court file, the minor was freed for adoption by the Buckner Kenya Adoption Services on July 14, 2021 through Certificate Declaring a Child Free for Adoption Serial No. xxx. The Report from Buckner also confirms that the entire family of both applicants is supportive of the adoption and that it will be in the best interest of the minor for the adoption order to be made.
 12. The proposed legal guardians, A. R. N and J. O. S have sworn an affidavit consenting to be appointed Legal Guardians of the minor should this become necessary. They are married since 2002 and are parents to three children. The 2nd Applicant is sister to A. R. N. Both are business people.



13. I have considered this application for adoption and the circumstances leading to the application and considered the applicable law. It is my considered view that making an adoption order would be in the best interest of the minor. This is the home he has known all the time and the 2nd applicant is his mother. The law commands this court to look at the best interest of the child in making any decision touching on such a child.
14. I am satisfied that the law has been complied with and the applicants have satisfied the requirements precedent before an adoption order can be made. For this reason, I allow this *Ex Parte* Origination Summons and make an adoption order in the following terms:
- i. That the Applicants, R. M. H and L. E. N, be and are hereby allowed to adopt the child known as L. L.
 - ii. That henceforth, the child is renamed as L. L. H.
 - iii. That consent of the biological father is hereby dispensed with.
 - iv. That A. R. N and J. O. S be and are hereby appointed as Legal Guardians of L. L. H. in the event that the Applicants are incapacitate or in any way unable to discharge their parental obligations.
 - v. That the Guardian Ad Litem is hereby discharged.
 - vi. That the Registrar General be and is hereby directed to make the appropriate entries in the Adopted Children's Register.
15. Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 20TH JUNE 2022.

S. N. MUTUKU

JUDGE

