



REPUBLIC OF KENYA



**In re Adoption of AVA (Child) (Adoption Cause E115 of 2021)
[2022] KEHC 13979 (KLR) (Family) (29 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 13979 (KLR)

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

FAMILY

ADOPTION CAUSE E115 OF 2021

M THANDE, J

JULY 29, 2022

IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)

AND

IN THE MATTER OF AVA

AND

AN APPLICATION FOR ORDERS OF ADOPTION OF AVA

BY

LSA

JUDGMENT

1. AVA, the child herein was born to SV on December 16, 2005 a single mother. On January 2, 2017 however, AVA's mother died, leaving her an orphan and in the care of her grandmother JKA. The applicant, LSA, seeks to adopt the child so that she can provide a home for her and step into her mother's shoes. She has therefore moved this court by her originating summons dated September 16, 2021 seeking to adopt the child.
2. This is a kinship adoption as the applicant is a cousin to the child's mother. KKPI Adoption Society, the registered adoption society which arranged the adoption declared the child free for adoption on August 18, 2021 vide certificate serial No. xxxx.
3. By an order of October 7, 2021 this court did appoint SMM as the *guardian ad litem* for the child pending the hearing and determination of the adoption application in accordance with section 160 of the [Children Act](#).
4. To facilitate this adoption, the applicant was assessed by KKPI and taken through the adoption process and its implications. The Society filed its report dated in its report recommending the adoption by the child by the applicant. Also filed was the report of the Director of Children Services dated October



25, 2021 by Ezekiel Kimani, Assistant Director and countersigned by Hoyd Isadia, Deputy Director. On his part, SMM the *guardian ad litem* filed his report dated October 19, 2021. All these reports are favourable and recommend the proposed adoption.

5. The applicant is not younger than 25 years nor older than 65 years. She is more than 21 years older than the child. Section 158 of the *Act* has thus been complied with. The applicant has been made aware of the consequences of an adoption order as well as the rights of an adopted child. She shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that she fully understands that the adoption order is final and binding during the lifetime of the child and that she cannot under any circumstances give up the child. The applicant also understands that the child shall have the right to inherit her property alongside her biological child. The applicant has demonstrated that she has the psychological and emotional capacity as well as the material resources to raise the child in a loving home environment.
6. The child is 17 years old having been born in 2005. Accordingly, under 158 of the *Act*, being above the age of 14 years, her consent to be adopted is required. At the hearing, the child confirmed to the Court that she consented to be adopted by the applicant.
7. The applicant nominated NIK to be the legal guardian of the child, in the event of the applicant dying or becoming incapacitated before the child is of full age. His consent dated July 28, 2021 is on record.
8. After a careful assessment of the reports filed herein this court has formed the opinion that it would be in the best interest of the child to be adopted by the applicant who will provide a home and a family for the child to belong to through which she will become a useful member of the society at large.
9. The court is further satisfied that all the legal requirements for a local and kinship adoption have been met and makes the following orders as prayed in the amended originating summons:
 - a. The applicant LSA holder of national identity card number xxxx is hereby allowed to adopt AVA.
 - b. I direct the Registrar General to enter this order in the Adoption Register.
 - c. NIK is hereby appointed legal guardian of the child in the event that the applicant dies or is otherwise incapacitated before the child attains the age of 18 years.
 - d. The appointment of SMM, the *guardian ad litem* now stands expired.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF JULY, 2022

.....

M. THANDE

JUDGE

In the presence of: -

.....for the Applicant

.....Court Assistant

