



REPUBLIC OF KENYA



**In re Baby HR (Baby) (Adoption Cause E028 of 2021)
[2022] KEHC 13727 (KLR) (Family) (29 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 13727 (KLR)

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

FAMILY

ADOPTION CAUSE E028 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 BABY HR ALIAS HR ALIAS ABANDONED BABY

AND

**AN APPLICATION FOR ORDERS OF ADOPTION
OF BABY HR ALIAS HR ALIAS ABANDONED BABY**

BY

LGC AND HIS WIFE RWN

JUDGMENT

1. By the Originating Summons dated March 22, 2021 the Applicants LGC and his wife RWN seek to adopt a child known as Baby HR alias HR alias Abandoned Baby. The Applicants have been married since December 12, 2009, and have no child of their own.
2. The reports on record indicate that the child who is estimated to have been born on June 12, 2019 was found abandoned on June 19, 2019 in [Particulars withheld] Village, Muteithia Sub-County, Meru County. James Gitonga Magiri of national identity card number xxxxxxxx who found the child near his home, reported the matter to the area chief and then took the child to Nanyuki Cottage Hospital for medical care. The child was then admitted at Neema House Infant Rescue Centre. The matter was reported at Timau Police Station vide Occurrence Book Number xx/26/06/19. The child was subsequently formally committed to the same Home for a period of 1 year by Nanyuki Children's Court vide Protection and Care Case Number 90 of 2019. Pursuant to Section 156 of the *Children Act*, the child was declared child free for adoption by Change Trust on November 1, 2019 vide certificate serial no xxxxx. In a final letter dated January 13, 2020, Timau Police Station indicated that efforts to trace the parents of the child have been futile.



3. The Applicants were assessed by Change Trust Adoption Society a registered adoption society and taken through the adoption process and its implications. The society's case committee sitting on July 26, 19 found that the Applicants fit to adopt a child of their preferred sex. The child was placed with the applicants on March 13, 2020 for mandatory bonding period pending adoption. There is a duly signed foster care agreement on record to that effect.
4. By an order of this Court of December 16, 2021 RWK was appointed as guardian ad litem for the child pending the hearing and determination of the adoption application, in accordance with Section 160 of the *Children Act*.
5. Reports in respect of the assessment of the Applicants have been filed as required. The report of Change Trust, the adoption society that arranged the adoption of the child is on record. For the Director of Children Services was filed a report dated May 19, 2022 by Carolyne Olilo, Senior Children Officer, and countersigned by Hoyd Isadia, Deputy Director. On her part, Rachel Wanjugu Kuira filed her report dated January 29, 2022. All these reports are positive and recommend that adoption.
6. It is noted that the child has been in continuous care and control of the Applicants for a period of about 2 years and 4 months which is more than the statutory 3 months' period required under Section 157 of the Act. The Applicants are not below the age of 25 years, nor are they older than 65 years. Both are more than 21 years older than the child. Section 158 of the Act has thus been complied with. The Applicants confirmed that they have been made aware of the consequences of an adoption order as well as the rights of an adopted child. They shall assume all parental rights and duties of the biological parents in respect of the child. I am satisfied that the Applicants fully understand that the adoption order is final and binding during the lifetime of the child. The child shall also have the right to inherit the Applicants' property. The Applicants cannot under any circumstances give up the child. From the aforesaid reports the Court is further satisfied that the Applicants have the financial resources, social and emotional capability to bring up the child.
7. The Applicants have nominated PGK and PK to be the legal guardians of the child, in the event of the Applicants dying or becoming incapacitated before the child is of full age. Their affidavit of consent sworn on March 22, 2021, is on record.
8. Having taken into account the foregoing factors, this Court has formed the opinion that it would be in the best interests of the child that she be adopted by the Applicants. The Court is further satisfied that all the legal requirements for a local adoption have been met and makes the following Orders:
 - a) The Applicants LGC holder of national identity card number xxxxxxxx and his wife RWN holder of national identity card number xxxxxxxx are hereby allowed to adopt Baby HRa alias HR alias Abandoned Baby who shall henceforth be known as CWG
 - b) The child's date of birth is hereby declared to be June 12, 2019.
 - c) The child is hereby declared to be a Kenyan citizen by birth.
 - d) I direct the Registrar General to enter this order in the Adoption Register.
 - e) PG and PK are hereby appointed as the legal guardians of the child, in the event of the Applicants dying or becoming incapacitated before the child is of full age.
 - f) The appointment of RWK, 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 Applicants

..... Court Assistant

