



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re G (Baby) (Adoption Cause E011 of 2022)  
[2022] KEHC 11067 (KLR) (29 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 11067 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E011 OF 2022  
RB NGETICH, J  
JULY 29, 2022  
IN THE MATTER OF AN APPLICATION FOR  
ADOPTION BY MWM AND WNG (APPLICANTS)**

**JUDGMENT**

1. The joint applicants filed the originating summons on May 17, 2022, filed under a certificate of urgency, seeking the following orders:
  - a. The applicants be allowed to adopt Baby G.
  - b. Henceforth the child be named RW.
  - c. The date of birth for the child be May 21, 2021 and her place of birth be deemed to be Nairobi County.
  - d. The child be presumed to be a Kenyan Citizen by birth and as consequence be entitled to the rights and benefits of a Kenya Citizen, including being issued with a Kenyan passport.
  - e. That the guardian ad litem be discharged and WMM and LNW be appointed as Legal Guardians of the child.
  - f. The Registrar General be directed to make an appropriate entry in the Adopted Children's Register.
  - g. That this court does issue such further orders as are in the interest of justice.
2. The application is premised on the grounds that the adoption is in the best interest of the child as she will benefit from the love and affection within a family unit. The child was offered for adoption by the biological mother upon birth on May 21, 2021 at the [particulars withheld] Health Centre and Maternity Hospital in Nairobi. The reason for the adoption is the biological mother had some financial difficulties and had four (4) other children.
3. The application is supported by affidavit sworn jointly by the applicants. They averred that they they are aged 40 years and 39 years respectively, their union was solemnized on December 17, 2011 as per



the marriage certificate. The union is blessed with two (2) sons who were formally adopted in the years 2016 and 2021.

4. That the 1<sup>st</sup> applicant works as a Senior Audit Manager at [particulars withheld] (Kenya) while the 2<sup>nd</sup> applicant W works as an Assistant Professor in Nutritional Sciences in the [particulars withheld] in the United States of America. They depend they have the financial capability to raise the child and are not ailing from any disease.
5. From the record, the child was born on May 21, 2021 and offered for adoption by the biological mother. The child was admitted at the Nest Children's Home and later at Home for Care and protection for a period of three (3) years.
6. The biological mother Ms. SNN gave a final consent on September 30, 2021. The child was declared free for adoption by the Case Committee of the Society as evidenced by cert no. 002xxx issued on October 6, 2021. They have no interests adverse to those of the child.
7. The urgency of the matter is that the wife WN works in the United States of America. She visited Kenya on June 15, 2022 and is scheduled to travel back to the USA on August 9, 2022 and wishes to travel with the minor to the USA and urged court to expedite the adoption of baby G to enable the processing of the travel documents.
8. The children officer's report was filed on June 15, 2022. The report indicates the applicants have been married for 11 years. They adopted two (2) boys and since their desire to have a large family they wish to adopt the twin girls. The minor is 1 year 7 months old. <sup>st</sup> May 2021 through the Adoption Agency of Little Angels Network. The child was declared free for adoption on 6<sup>th</sup> October 2021, by certificate no. 002xxx by Little Angels Network.  
She was given up for adoption by her mother SNN in a letter dated 21
9. The report further describes the applicants as being financially stable and comfortable in providing for the children. The applicants are both employed and earning a decent salary of Kshs 400,000/= and USD 8,000/= respectively and aware of the rights of the minor to inherit their property.
10. The report indicated the child has bonded well with the applicants' family and is readily accepted. From the report, the applicants have fulfilled the legal requirements for adoption and it is in the best interest of the child to be adopted by the applicants.
11. During the hearing, the 1<sup>st</sup> applicant MWM confirmed the 2<sup>nd</sup> applicant is his wife and they are blessed with two (2) children aged 6 years and 3 ½ years through adoption and they desire to adopt the child who is about 14 months. He said they have stayed with the child since 3<sup>rd</sup> November 2021 and his relatives have accepted the child and she has been fully embraced in the family.
12. The 2<sup>nd</sup> applicant WN stated that the 1<sup>st</sup> applicant is the husband. She works in the USA and has taken leave to attend to this matter. She stated that during the period she has been in the USA, the child has been in the care and custody of the 1<sup>st</sup> applicant and the paternal grandmother. She urged the court to expedite the matter to enable the applicants process the travel documents for the minor as she desires to travel with the minor to the USA.
13. The legal guardian WM a brother to 1<sup>st</sup> applicant M stated and confirmed that his family approved the application for adoption of the child and have accepted the child; and he is aware of his responsibility as a legal guardian and understands his role as a legal guardian.



### **Analysis and determination**

14. From the record, the biological mother of the child has given her consent to adopt the children in compliance with the law.
15. The child was placed under the care and custody of the applicants on 3<sup>rd</sup> November 2021, a period of three (3) months preceding the filing of the current application.
16. The child having been born in Nairobi by a Kenyan mother is presumed to be Kenyan by birth.
17. Section 186 of the *Children Act* 2022 which provides as follows:-
  - (1) The court may make an adoption order on application by— (a) a sole applicant, or (b) two spouses jointly.
  - (2) The court shall not make an adoption order in any case unless—
    - (a) the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
    - (b) the applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
18. From the record and proceedings before court I am satisfied that the applicants have met the requirements as stipulated under the above provisions.
19. The procedural steps required during the adoption have been fulfilled and it is in the best interest of the child that the child be adopted by the applicants.
20. For the foregoing reasons, the applicants originating summons dated May 17, 2022 is hereby allowed.

### **FINAL ORDERS:-**

1. The applicants are hereby allowed to adopt Baby G.
2. The name of the child to be changed to RW.
3. The guardian ad litem is hereby discharged.
4. WMM and LNW are appointed as Legal Guardians of the child.
5. The Registrar General is hereby directed to enter the name of the child herein in the Adopted Children's Register.

JUDGMENT DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 29<sup>TH</sup> DAY OF JULY, 2022

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RACHEL NGETICH

JUDGE

In the Presence of:

Kinyua – Court Clerk



Ms. Mbuvi for Applicant

1<sup>st</sup> Applicant – Present

