



REPUBLIC OF KENYA



**In re G/GGN (Baby) (Adoption Cause 139 of 2015)
[2022] KEHC 13729 (KLR) (Family) (29 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 13729 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE 139 OF 2015
M THANDE, J
JULY 29, 2022
IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)
AND
IN THE MATTER OF BABY G/GGN
AND
APPLICATION FOR ORDERS OF ADOPTION OF BABY G/GGN
BY
CNG AND HIS WIFE MWW**

RULING

1. CNG and his wife MWW moved this Court by their Originating Summons dated 25.5.15, seeking to adopt a male child known as Baby G/GGN. The reports on record indicate that the child was born on 16.9.11 at Kenyatta National Hospital to a mentally unstable woman. The mother was on 23.9.11 transferred to Mathare Mental Hospital, leaving the child behind. By a judgment delivered on 12.11.18, Muigai, J. noted that no documents were filed in Court from Kenyatta National Hospital, giving the identity details and circumstances of the biological mother of the child, her mental condition and transfer to Mathare Mental Hospital. No records from the said hospital were also availed indicating the mental status and progress of the child's biological mother. In view of the foregoing, the Court was not satisfied that the child is actually free for adoption, and declined to grant the orders sought.
2. The Applicants have now filed an application dated 8.11.21, seeking that the Court orders a comprehensive report on the child, the Applicants and the health status and whereabouts of the child's biological mother. The Applicants prayed that the order of 12.11.18 be reviewed, varied and set aside after factoring in the report to be filed.
3. Rule 18 of the Adoption Societies and Children (Adoption) Regulations, 2005 stipulates the information an adoption society is required to obtain, with regard to a child to be adopted as follows:



- (1) In the case of a child offered to be delivered by or on behalf of a registered adoption society into the care and possession of an adopter, the society shall—
 - (a) make enquiries and obtain a social worker’s report on the matters set out in the Sixth Schedule; and insurmountable
 - (b) obtain a medical report on the health of both the child and the adopter in the form set out in the Eighth Schedule.
4. Under the Sixth Schedule an adoption society is also required to obtain the full particulars of the mother of a child.
5. In its report dated 16.7.14, Kenyans to Kenyans Peace Initiative (KKPI), the adoption society that arranged the adoption of the child herein stated as follows regarding the origin of the child:

The child was born on 16th September 2011, he was found abandoned on 16/9/11 at Kenyatta National Hospital maternity ward, the matter was reported at Kenyatta Police Post vide OB Number xxxx. The minor was abandoned and has remained unclaimed for more than six months.
6. No mention was made of the biological of the mother of the child as required. KKPI then proceeded to declare the child free for adoption. This in my view falls far short of the requirements of Regulation 18 of the Adoption regulations and the Sixth Schedule. Similarly, the report by the Director of Children’s Services did not provide sufficient information regarding the biological mother of the child. Little wonder then that the learned Judge declined to grant the adoption order.
7. It is noted that in her Judgment, the learned Judge found that the Applicants fulfilled the legal requirements for adoption. This remains the position. There is however still no report on record containing any evidence that would persuade the Court that this child is free for adoption. Given that the biological mother of the child was admitted at both Kenyatta and Mather hospitals, it is unacceptable that no records from the said hospitals were availed to the Court. In the circumstances herein, it is not implausible that the biological mother of the child could still be out there mourning a child she never buried. It is therefore critical that information is obtained and availed to the Court, regarding the identity, health status and whereabouts of the child’s biological mother.
8. In view of the foregoing, I make the following orders:
 - a. The Director of Children Services and Kenyans to Kenyans Peace Initiative adoption society are hereby directed to do a comprehensive social inquiry into the identity, mental health status and whereabouts of the child’s biological mother and file a report within the next 90 days.
 - b. Mention on 3.11.22 to confirm and for directions.

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

M. THANDE

JUDGE

In the presence of: -

..... for the Applicant

..... Court Assistant

