



REPUBLIC OF KENYA



**In re WO (Baby) (Adoption Cause 169 of 2021)  
[2022] KEHC 13976 (KLR) (Family) (29 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 13976 (KLR)

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

**FAMILY**

**ADOPTION CAUSE 169 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 WO**

**AND**

**AN APPLICATION FOR ORDERS OF ADOPTION OF BABY WO**

**BY**

**EMM AND HIS WIFE LMK**

**JUDGMENT**

1. By the originating summons dated December 9, 2021 the EMM and his wife LMK seek to adopt a child know as WO. The reports on record indicate that the child is estimated to have been born on October 13, 2016 to RK, a 20 year old single woman from Kisii county. The child and his twin sister were on January 20, 2017 admitted at Kenya National Hospital under IP No. xxxxxxxx with severe malnutrition. The mother absconded after the baby girl succumbed to her condition and the hospital was unable to trace her. The matter was reported at Kenyatta Police Post *vide* Occurrence Book Number xx/xx/2/17. Thereafter on April 31, 2017, the child was admitted at the Imani Children's Home. The child was subsequently formally committed to the same home for a period of 3 years by Milimani Children's Court *vide* Protection and Care Case Number 475 of 2017. Pursuant to section 156 of the [Children Act](#), the child was declared child free for adoption by Buckner Kenya Adoption Services *vide* certificate serial no xxxx dated August 3, 2018 . In a final letter dated July 4, 2018, Kenyatta Police Post indicated that efforts to trace the mother or family of the child have been fruitless.
2. The applicants have moved this court by their originating summons dated December 9, 2021 seeking to adopt the child. Towards this end, the applicants were assessed by Buckner Kenya Adoption Services, a registered adoption society and taken through the adoption process and its implications. The society's



case committee sitting on July 8, 2016 found that the applicants fit to adopt a child of their preferred sex and age. The child was placed with the applicants for mandatory bonding period prior to adoption on September 2, 2018. There is a duly signed foster care agreement on record to that effect.

3. By an order of this court of February 24, 2022 MM was appointed as *guardian ad litem* for the child pending the hearing and determination of the adoption application, in accordance with rule 8 of the *Adoption Rules*.
4. Reports in respect of the assessment of the applicants have been filed as required. The report of Buckner Kenya Adoption Services which arranged the adoption of the child is on record. For the director of Children Services was filed a report dated April 11, 2022 by Carolyne Olilo a senior children officer, and countersigned by Hoyd Isadia the deputy. On her part, MMM filed her report dated April 23, 2022. All these reports are positive and recommend that adoption.
5. It is noted that the child has been in continuous care and control of the applicants for a period of about 4 years 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, alongside with the female applicant's biological daughter Faith Kanini Kyule. 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.
6. The applicants have nominated IMM and BNN 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 December 7, 2021 is on record.
7. 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 he 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 as prayed in the originating summons herein:
  - a. The applicants EMM holder of national identity card number xxxxxxxx and his wife LMK holder of national identity card number xxxxxxxx are hereby allowed to adopt Baby WO who shall henceforth be known as EK.
  - b. The child's date of birth is hereby declared to be born on October 13, 2016.
  - 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. IMM and BNN are hereby appointed the legal guardians of the child, in the event of the applicants dying or becoming incapacitated before the child is of full age.
  - f. MMM, the *guardian ad litem* is hereby discharged.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29<sup>TH</sup> DAY OF JULY 2022**

**M THANDE**



**JUDGE**

**In the presence of: -**

..... for the applicants

..... Court Assistant

