



**In Re R (Baby) (Adoption Cause E009 of 2021)  
[2022] KEHC 12561 (KLR) (5 August 2022) (Judgment)**

Neutral citation: [2022] KEHC 12561 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E009 OF 2021  
MM KASANGO, J  
AUGUST 5, 2022**

**IN THE MATTER OF AN APPLICATION FOR AN  
ADOPTION ORDER IN RESPECT OF BABY R**

**JUDGMENT**

1. EMM has applied by her originating summons dated June 10, 2021, to be authorised to adopt baby R. The baby is female and the applicant who is a sole applicant is a female.
2. The background of the baby is that she was born, on May 2, 2019, by a 23 year old girl at St Mary's Health Centre, Githurai 44. The biological mother, on May 3, 2019 left the said hospital and abandoned the baby. On May 3, 2019 the baby was reported as abandoned at Kasarani police station. That report was recorded as OB No 79/03/5/2019. The baby was on that day admitted into the Nest Children Home for care and protection. The Nairobi children's court by an order issued in Care and Protection No 696 of 2019 on May 29, 2019 committed the baby that children's home. On June 15, 2020 Kasarani police station issued a second letter indicated the unsuccessful efforts undertaken to trace the baby's mother or kindred. The baby was declared free for adoption on November 13, 2020 by Buckner Kenya Adoption Service, an adoption society. The baby was released into the care and custody of the applicant 30<sup>th</sup> February, 2021.
3. I have considered the originating summons bearing in mind the *Children Act, 2022* (The act). The summons have met the requirement of section 184 (1) of the *act*, in that, the baby was declared free for adoption. The applicant has had continuous care and control of the baby in excess of 3 months as required by section 185(2)(a) of the *act*. The baby, the subject of this adoption cause, was abandoned at birth by her biological mother and accordingly, this court has dispensed with requirement of consent of the biological mother as provided under section 187(1)(a) of the *act*.
4. The applicant is 48 years old and is accordingly, more than 25 years old than the baby and therefore section 186(1)(a) is clearly met.
5. This court has considered this matter and is satisfied that no consent is required from the baby's biological parents, since the baby was abandoned at birth. The applicant from the various reports provided has proved her ability to maintain and educate the baby as required by section 194(1)(c).



There is no evidence presented to this court demonstrating the applicant has received nor given or agreed to give payment or reward to anyone in consideration of the adoption of the baby. The applicant was assessed and evaluated by duly registered Adoption Society and was recommended for the adoption of the baby.

6. The applicant has provided names of the persons she wishes to be appointed legal guardians for the baby.
7. The adoption of the baby is in view of this court, in the best interest of the child. The Director of Children's Services report and the report of the guardian *ad litem* presents a picture of excellent bonding between the applicant and the baby. That bonding is made that much stronger by the fact that the applicant has not employed a nanny to care for the baby. The applicant solely takes care of the baby.

### **Disposition**

8. The judgment of this court therefore is:-
  - a. The applicant is hereby authorised to adopt baby R to be henceforth known as SM
  - b. JNM and PWM are hereby appointed legal guardians of the baby in the event of death or incapacity of the applicant before the full age of the baby.
  - c. The Registrar General is hereby directed to enter this adoption into the children's register.
  - d. The baby is presumed to be a Kenyan citizen and her date of birth is May 2, 2019.
  - e. The consent of the biological parent/s of the baby is/are hereby dispensed.
9. Orders accordingly.

**JUDGMENT DATED AND DELIVERED AT KIAMBU THIS 5<sup>TH</sup> DAY OF AUGUST, 2022.**

**MARY KASANGO**

**JUDGE**

**Coram:**

Court Assistant : Mourice

For Applicant :

**COURT**

Judgment delivered virtually.

**MARY KASANGO**

**JUDGE**

