



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby AA (Adoption Cause 23 of 2021)
[2022] KEHC 15757 (KLR) (24 November 2022) (Judgment)**

Neutral citation: [2022] KEHC 15757 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE 23 OF 2021
RB NGETICH, J
NOVEMBER 24, 2022
IN THE MATTER OF THE CHILDREN'S ACT
AND
IN THE MATTER OF BABY AA
AND
IN THE MATTER OF AN APPLICATION FOR
ADOPTION BY JWI AND EWN(APPLICANTS)**

JUDGMENT

1. The applicants filed originating summons application dated November 24, 2021 seeking to be allowed by this court to adopt baby AA among other prayers set out as hereunder:-
 - a. The child be renamed AWMW.
 - b. The child be presumed to be have been born on June 19, 2018 and her place of birth be declared to be Machakos County.
 - c. The child be presumed to be a Kenyan citizen by birth and as a consequence be entitled to the rights and benefits of a Kenyan citizen including being issued with a Kenyan passport whenever desired.
 - d. The consent of the biological parents/guardians be dispensed with.
 - e. The guardian *ad litem* be discharged and MNN and JWG be appointed as legal guardians.
 - f. The registrar general be directed to make appropriate entries in the adopted children's register.
 - g. That the court does issue such further orders as are in the interest of justice.
2. The applicants are husband and wife aged 39 and 40 years respectively having solemnized their union at [Particulars withheld] in Limuru sub-county Kiambu as per the attached marriage certificate serial no xxxx.



3. The 1st applicant works as a [particulars withheld] while the 2nd applicant is an accountant working with [particulars withheld] limited. The applicants have averred that they are blessed with one issue in the marriage and they are financially stable with sufficient resources to maintain the children.
4. The children and adoption society's report filed indicate that the child was found on January 18, 2019 by two samaritans abandoned near the gate of Top Tank Factory. Report was made at Athi River Police Station and recorded under OB No 73/18/1/2019. Subsequently, the child was placed under the care and protection of Mahali pa Maisha Children's Home through an order of the Children's Court at Mavoko *vide* Protection and Care Case No 2 of 2019, for a period of one year.
5. The reports further indicate that investigations were conducted by the police and efforts to trace the family of the child or any relative of the child were futile. Athi River Police Station wrote the final letter on August 14, 2019.
6. The child was freed for adoption by the Little Angels Network on August 21, 2019 *vide* certificate serial no xxxx. Subsequently, the child was placed under the custody of the applicants in October 2019.
7. During the hearing, the 1st applicant confirmed that the 2nd applicant is his wife and are both blessed with one issue from the marriage aged 2 years. This was confirmed by the 2nd applicant.
8. The child on the other hand stated that she is 4 years old and that she is a student at [particulars withheld] primary currently in PP1. The court observed the child has bonded well with the mother.
9. The legal officer Harriet Kihara testified that she visited the applicants twice and observed that the child was happy and the applicants decided to keep the subject child despite having their own child.
10. From the report filed by the children's officer, the child has bonded so well with the family; she is well taken care of by the applicants, has bonded well with her sister and recommends that it is in the best interest of the child that she is adopted by the applicants.
11. I have perused the reports filed and considered evidence adduced orally in court and I am satisfied that the applicants have complied with section 184/185 (1) (b) of the *Children Act* 2022. Applicants are aged 39 and 40 years respectively which is within the age bracket stipulated under section 185 of the *Children Act* 2022 and it is in the best interest of the subject child that she be adopted by the applicants.

Final Orders:-

1. The applicants are allowed to adopt baby A.
2. The child is renamed AWMW.
3. The child is presumed to have been born on June 19, 2018 at Machakos County and a Kenyan citizen by birth and entitled to all the rights and benefits of a Kenyan citizen.
4. The consent of the biological parents is dispensed with.
5. The guardian *ad litem* is discharged and MNN and JWG are appointed as legal guardians.
6. An order is directed to the registrar general to make the necessary entry in the adopted children's register.

JUDGMENT DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 24TH DAY OF NOVEMBER, 2022.

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RACHEL NGETICH

JUDGE

In the Presence of:

Kinyua/Martin – Court Assistant

No Appearance by Parties

For Applicants – Absent

