



**In re JJ (Child) (Adoption Cause E006 of 2022)  
[2022] KEHC 15603 (KLR) (24 November 2022) (Judgment)**

Neutral citation: [2022] KEHC 15603 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E006 OF 2022  
MM KASANGO, J  
NOVEMBER 24, 2022  
IN THE MATTER OF THE CHILDREN ACT  
AND  
IN THE MATTER OF AN APPLICATION FOR ADOPITON OF BABY JJ (CHILD)**

**IN THE MATTER OF**  
**SWK ..... 1<sup>ST</sup> APPLICANT**  
**SNM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Before me is an originating summons dated February 25, 2022. The applicants SWK and SNM seek an order *inter alia* to be permitted to adopt baby JJ.
2. The applicants were married in April, 2007 under the Kikuyu Customary Law which marriage they solemnized on May 19, 2021. They do not have biological children of their own.
3. The adoption is a joint local adoption, that is the applicants and the baby are Kenya: see section 183(4) (b) of the [Children Act](#) 2022 (the Act).
4. Buckner Kenya Adoption Services an adoption society on August 6, 2021 declared the baby free for adoption: see section 184(1)(a).
5. The baby is a male child and is estimated to have been born on November 20, 2020. On November 21, 2020 he was found abandoned by the roadside within (withheld) village. He was estimated to be one day old. The person who found the baby abandoned reported the matter to the chief. He was requested by the chief to find a suitable overnight stay for the baby. The good samaritan accommodated the baby overnight in his family home and reported the matter to the police the following day. Kigumo Sub-County Children’s Officer recommended the baby be committed to Neema House Infant Rescue



Centre. The baby was committed by the children’s court on November 25, 2020 for 3 years period to the afore said children’s home.

6. The good samaritan wrote a letter dated May 25, 2021 whereby he narrated how he found the abandoned baby near the gate of his home. On inquiring from his children, none of them had information about the abandoned baby. The good samaritan stated that at the date of writing his account on this matter, no one had claimed the baby. Similarly, Kaharati Police post wrote a letter dated July 21, 2021 confirming that no one had come forward claiming the child. The adoption society also made inquiries from the children’s home and that home also confirmed that no one had inquired about the baby. It is as a consequence of the above that the baby was declared free for adoption. The baby was placed under foster care of the applicants on July 26, 2021. The baby has therefore been under continuous care and control of the applicants in excess of the requisite period of 3 months: see section 185(2)(a) of the Act.
7. Buckner Kenya Adoption Services an adoption society supports the application by the applicant with a report of January 13, 2021. That report contains the society’s findings and recommendation in respect of the child. The report sets out the background information of the applicants. Therein is noted that the applicants are medically fit, have no criminal record and they meet the necessary requirement for adoption of a baby. The following observations were noted in that report, that is:-

“Observation

After spending time with the applicants, it is evident that the applicants have keenly thought about their decision and are looking forward to nurture a child. They are outgoing couple and loves children passionately.

The house is spacious and being enough for the child to be adopted to fit in. the child’s room to be adopted is readily available and spacious. There is enough space to accommodate the child during play time because the compound s wide enough. Their place is easily accessible and not far from the main road.

Both the applicants are hardworking, humble, God fearing and social people who are set for the adoption process. They are financially capable of accommodation (sic) the two new members in the family.

The applicants have good recommendations from their referees.”

8. The report concludes by recommending the applicants to adopt the baby and further stated:-

“We are confident the applicants will be loving parents to adopt[the] child and prove him with love and all basic needs.”
9. The baby is eligible for adoption by virtue of section 185(4)(b) which section provides that an abandoned child whose parents’ or guardian’s whereabouts are unknown is eligible for adoption.
10. The applicants are within the permitted age bracket qualifying them to adopt the baby: see section 186(a) and (b).
11. There is no evidence the applicants or anyone of them suffer from unsound mind or that they are incapable of exercising proper care of the baby. To the contrary, all the reports reveal a couple who are loving and protective of the baby: see the guardian *ad litem* report dated July 18, 2022.
12. I have considered the various positive reports written in respect to this adoption. The applicants appreciate the effect of legally adopting the baby, that is, it is permanent. I also had the opportunity to



observer the applicants and the baby during the hearing of the adoption. The documents before court additionally shows the applicants' ability to educate and maintain the baby: see section 194(1)(c) of the Act. The adoption is undoubtedly in the best interest of the baby.

13. The consent of the biological parent/s to the adoption of the baby will be dispensed with since the parent/s is/are untraced and the baby was abandoned one day after birth: see section 187(3).

### **Disposition**

14. The judgment of this court therefore is as follows:-
- a. That the applicants SWK and SNM are hereby authorized to adopt by JJ who shall henceforth be known as JJKW
  - b. That SMN and RNK are hereby appointed as legal guardians of the baby in the event of death or incapacity of the applicants before the full age of the baby.
  - c. That the guardian *ad litem* is hereby discharged.
  - d. That the registrar general is hereby directed to make the appropriate entries in the adopted children's register.
  - e. That the baby is presumed to be a Kenyan citizen.
  - f. That the consent to this adoption of the biological parent/s or guardian is hereby dispensed with.

**JUDGMENT DATED AND DELIVERED AT KIAMBU this 24<sup>th</sup> day of NOVEMBER, 2022.**

**MARY KASANGO**

**JUDGE**

In the presence of :-

Coram:

Court Assistant:- Mourice/Julia

For Applicants: Instructed by Kimenyi & Co. Advocates: Miss Kimenyi:- Miss Kimenyi

Court

Judgment delivered virtually,

**MARY KASANGO**

**JUDGE**

