



**In re MZ (Baby) (Adoption Cause E003 of 2021)
[2022] KEHC 17251 (KLR) (21 December 2022) (Judgment)**

Neutral citation: [2022] KEHC 17251 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
ADOPTION CAUSE E003 OF 2021
SN MUTUKU, J
DECEMBER 21, 2022
IN THE MATTER: CHILDREN ACT NO. 8 OF 2001
AND
IN THE MATTER OF: CHILDREN (ADOPTION) REGULATIONS, 2005
AND
IN THE MATTER OF: ADOPTION OF BABY M.**

BETWEEN

PWN APPLICANT

AND

LITTLE ANGELS NETWORK ADOPTION SOCIETY 1ST RESPONDENT

DIRECTOR OF CHILDREN SERVICES 2ND RESPONDENT

JUDGMENT

1. By an Originating Summons, PWN (the Applicant) seeks adoption order in respect of Baby MZ, a baby girl aged two years and eleven months (2.11) years. PWN is a single applicant. She is a Kenya citizen and holder of National Identity Card No. 24XXXX04 born on October 8, 1986 in Embu county. She is currently employed by [Particulars Withheld] as the Global Supply Chain Communications Manager. She is a Christian.
2. The Applicant is single and has never been married. She does not have other children. She hopes to marry and have more children.
3. The Applicant is a graduate of Jomo Kenyatta University of Science and Technology (JKUAT) where she obtains Bachelor of Commerce Degree in Marketing in 2009 and holds MBA Degree from the



United States International University (USIU) in 2015. She lives in [Particulars Withheld] Estate in Nairobi in a two-bedroom rented apartment.

4. On July 7, 2022, this court appointed EMM as Guardian Ad Litem for Baby MZ. She was directed to investigate the suitability of the Applicant to adopt Baby MZ and file a report within 45 days. Likewise, the Director of Children Services was directed to investigate the suitability of the Applicant to adopt the baby and file a report within the same period. Both reports are in the court file.

History of the baby

5. From the records of documents filed in court, Baby MZ was born on November 6, 2019 at Ruiru Sub-County Level 5 Hospital to one KMN, who abandoned the child immediately after birth. The matter was reported at Ruiru Police Station by one James Ngugi Ndungu, a guard at the said Hospital vide OB No. 45/7/11/2019 for the missing person and OB No. 41/8/11/2019 for an abandoned child. On November 18, 2019, Baby MZ was admitted at New Life Home Trust for care and protection. This was formalized through a court order in Children's Court at Nairobi Protection and Care Case No. 1450 of 2019.
6. From the report from New Life Home Trust, there was no one who turned up to claim the child during her stay at the Home. This information is confirmed by the police as per the two letters from Ruiru Police Station dated November 8, 2019 and June 1, 2020.
7. The child was freed for adoption by the Case Committee of Buckner Kenya Adoption Services (BKAS) on November 13, 2020. Buckner Kenya Adoption Services issued a Certificate of Declaring the Child Free for Adoption through Certificate No. 430 dated November 13, 2020.

Reports on suitability to adopt

8. I have read the Report from the Guardian Ad Litem dated October 3, 2022. I have noted its contents. It is a comprehensive report and is favourable. It recommends the adoption.
9. I have equally read the Report of Director of Children's Services dated February 22, 2022 prepared by Ezekiel Kimani. I have noted its contents. It too recommends the adoption. Both reports have demonstrated that the Applicant is fit to adopt the child and that she has sufficient resources to bring up the child.
10. The Applicant has proposed two legal guardians namely FK and AD. The two proposed legal guardians have given their consent through letter dated February 5, 2019.

Determination

11. Ms Owano, learned counsel representing the Applicant, made oral submissions in support of the application. I have considered these submissions and the pleadings and attached documents contained in the court file records. I have considered the law, specifically Article 53 (2) of the Constitution and section 8 of the *Children Act, 2022*. I am alive to the dictates of the law under those provisions that a child's best interests are of paramount importance in every matter concerning the child.
12. I have also satisfied myself that the provisions of sections 183, 184, 185, 186 and 187 of the *Children Act* have been complied in this adoption process. The reports filed herein are clear that the Applicant is suitable to adopt the child and this court has no reason to decline this Application.
13. Before granting the final orders, I wish to mention that one of the orders sought is that "a birth certificate and not an adoption certificate be issued by the Registrar General in respect of Baby MZ. Counsel for the Applicant did not address the court on this issue. However, I am persuaded by the



decision in Organization for *National Empowerment v. Principal Registrar of Births and Deaths & Another* [2013] eKLR, where it was held, inter alia, that:

- i. “An order is issued directed at the Principal Registrar of Births and Deaths to issue all adopted children appearing in the Register for Adopted Children with birth certificates based on the particulars appearing in the said Register but with no reference to the parents as “adopter” or “adopters” and with no reference to the child as “adopted”.
- ii. The Principal Registrar of Births and Deaths shall maintain the Register of Adopted Children for record purposes and for future use by either the adopted child or adopter parents”

14. The Applicant addressed the court and expressed her wish on the name the child should bear after the adoption order is granted. I have considered that request and grant the following orders:

- i. That an adoption order is hereby granted allowing PWN to adopt Baby MZ.
- ii. That the name of the child shall henceforth be KNN. This name shall appear in full on the documents relating to the child but it appears in initials in this judgment to protect the identity of the child.
- iii. That FK and AD are hereby appointed Legal Guardians of Baby KNN.
- iv. That a Birth Certificate and not an Adoption Certificate shall be issued by the Registrar General in respect of Baby KNN.
- v. That the Guardian Ad Litem, EMM is hereby discharged by this court from being Guardian Ad Litem.

15. Orders shall issue accordingly.

Dated, signed and delivered this 21st day of December, 2022.

S. N. MUTUKU

JUDGE

