



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Baby DP (Adoption Cause E009 of 2024)  
[2025] KEHC 1929 (KLR) (14 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 1929 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E009 OF 2024  
A MSHILA, J  
FEBRUARY 14, 2025  
IN THE MATTER OF THE CHILDREN'S ACT  
AND  
IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF BABY DP  
  
IN THE MATTER OF  
MWM ..... APPLICANT**

**JUDGMENT**

1. The application is brought by way of an Originating Summons and is dated the 7<sup>th</sup> June, 2024; and is premised under the provisions of Sections 8 and 183 of the Children's Act 2022; Section 9 of the *Kenya Citizenship and Immigration Act* No 12 of 2011 and Article 14 of the *Constitution* of Kenya, 2010. The Applicant seeks the following Orders;
  - a. That the Applicant M.W.M. be authorised to adopt the child currently identified as Baby D.P.
  - b. That henceforth the child be renamed as G.G.W.
  - c. That the consent of the biological parents be dispensed with as the child was abandoned.
  - d. That S.W.M. be appointed as Legal Guardian of the child, in the event that the Applicant herein is incapacitated or is in any way unable to discharge her parental obligations.
  - e. That the Guardian *ad litem* be discharged.
  - f. The Registrar General do make the appropriate entries of G.G.W. in the Adopted Children's Register.
  - g. That the Court do issue such further orders as are in the interest of justice.
2. The application was supported by the statement and Affidavit made by the Applicant M.W.M.



3. The Guardian *ad litem* MWK appointed on the 11<sup>th</sup> October, 2024; This Court directed the Director of Children's Services and the Guardian *ad litem* to carry out home visits and do investigations and to file their respective Reports.
4. After visiting and interrogating the Applicant the Kiambu Sub-County Children's Office and the Guardian *ad litem* filed their respective Reports on the Applicants suitability to adopt BABY D.P. the reports were duly filed in court and are dated 29<sup>th</sup> November, 2024 and 7<sup>th</sup> October, 2024.
5. Baby D.P. is female and her presumed date of birth is 27<sup>th</sup> February, 2022. On 27/02/2022 she was found by a Good Samaritan abandoned in a bush within Maweni Area in Diani within Kwale County and the case of abandonment was reported at Diani Police Station vide OB No 02/27/02/2022; Baby D.P. was taken for a medical check-up at Diani Dispensary and was admitted on 27/02/2022 to Diani Children's Village for temporary shelter, care and protection whilst awaiting committal; under the Protection And Care Case No E003/2022 the Children's Court sitting at Kwale baby D.P. was formally committed vide Order issued on 24/03/2022 to the aforesaid institution for protection and care for a period of three (3) years; On the 12/05/2023 she was declared free for adoption under Section 156(1) of the [Children's Act](#) and a Certificate Serial Number 1097 was issued by Child Welfare Society of Kenya.
6. After reading and taking into consideration the contents of these reports this court notes that the Applicant is a Kenyan citizen; she is a single lady and at the time of filing this application the prospective adoptive parent M.W.M. was aged 53 years.
7. On the issue of the age of the prospective adoptive parent the applicable law is found at Section 186 (2) (b) of the new [Children's Act](#), 2022 and it reads as follows;
  - (2) The court shall not make an adoption order in any case unless -
    - (b) the applicant or both of the applicants in a joint application is more than twenty- one years older than the child.
8. This then means that the Applicants age falls within the prescribed legal parameters.
9. M.W.M. has no biological children. She is currently employed by [particulars withheld] as a Cateress. The Applicant has produced into court copies of pay-slip and Bank Statements to prove her financial capability to support Baby D.P. when she assumes responsibility for her upbringing.
10. The Certificate of Good Conduct is current and valid and this court is satisfied that there are no adverse circumstances discernible from the family of the Applicant or any individual characteristics or lifestyle that would be detrimental to the child.
11. It is noted that this is was a case of abandonment and the police had made efforts to trace the family of Baby D.P. and later issued a Final Police Report dated 16/02/2023 indicating that their efforts to trace the biological family or relatives had not been successful and the child remained unclaimed; therefore, this Court will dispense with the requirement of consent from the biological parent(s).
12. This Court is satisfied that the Applicant has fulfilled all the pre-requisites for adoption orders sought to be granted;

### **Findings & Determination**

13. For the forgoing reasons this court finds that the application for adoption is in the best interest of the child and it is hereby allowed.



- ii. The Applicant be and is hereby authorized to adopt BABY D.P. and she shall be known as G.G.W. The Registrar General be and is hereby directed to enter this adoption order of G.G.W. in the Adopted Children's Register.
- iii. G.G.W. be and is hereby presumed to be a Kenyan Citizen and the Director of Immigration Services do issue her with a Kenyan Passport.
- iv. S.W.M. be and is hereby appointed to stand in as legal guardian to G.G.W. until the child attains the age of majority of eighteen (18) years.
- v. The Guardian *ad litem* be and is hereby discharged.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 14<sup>th</sup> DAY OF FEBRUARY, 2025.**

**HON. A. MSHILA**

**JUDGE**

In the presence of;

Sanja - Court Assistant

Applicant – present in person

