



**In re IN (Minor) (Adoption Cause E005 of 2024)
[2025] KEHC 2127 (KLR) (13 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 2127 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
ADOPTION CAUSE E005 OF 2024
FN MUCHEMI, J
FEBRUARY 13, 2025
IN THE MATTER OF ADOPTION OF IN (MINOR)**

IN THE MATTER OF

JKN 1ST APPLICANT
EWK 2ND APPLICANT

JUDGMENT

Brief facts

1. The Originating Summons for determination dated 18th December 2024 seeks for orders of adoption of one IN, a minor. The applicants further seek for orders that upon granting of the orders for adoption, the Registrar General do make an entry in the Adopted Children’s The applicants further pray for orders that the Director of Immigration be authorized to issue the minor with a Kenyan passport.

The Applicants’ Case

2. The applicants state that they are husband and wife born on 11th November 1959, passport number AK120XXXX and 3rd March 1963 of ID No. 7985XXX respectively. The applicants aver that they seek to adopt the minor who was born on 24th October 2014 to their daughter FWK living and working for gain as a nurse in the United States of America. The applicants further state that the minor has been in their custody since he was two (2) years old. He was left with the applicants after his mother left the country to go to the United States of America. (USA).
3. The applicants further state that they would like to relocate to the United States of America on a green card entry. The applicants state that they have no one to leave the minor with hence the need for adoption. The applicants state that they intend like to give their grandson inheritance rights which can only be conferred through obtaining adoption orders.



4. Furthermore, the applicants aver that it is important to protect the minor since the whereabouts of its father are unknown. The applicants say they would not want the minor to be exposed to uneventual fights from their own children in the unfortunate events of their deaths. The applicants state that they have four other children who are adults and they are not opposed to them adopting the minor.
5. The applicants state that they had a visa interview on 3rd July 2024 where they presented themselves and the minor to the United States embassy. It is during the said interview that the embassy directed that they obtain an adoption order from court.
6. The applicants aver that this being a Kinship oriented application they have no hesitation to obtain the papers and orders and thus the reason for filing this case.
7. The applicants aver that they are Christians and committed followers of the Anglican Church of Kenya denomination and they wish to bring up the minor in a Christian environment teaching him Christian values and ethics. The applicants further state that they have not received or agreed to receive any payment or reward in consideration of the adoption sought.
8. The applicants aver that they are financially and socially capable of fully caring, parenting and maintaining the minor should the adoption order be granted in their favour.

Issue for determination

9. The main issue for determination is whether the applicant has satisfied the legal requirements for adoption under the Children's Act to be granted the adoption order.

The Law

10. The preliminary requirements for the making of an adoption order are set out in Section 184(1) of the Children's Act which provides as follows:-

No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free or adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf."

11. As such, for an adoption order to ensue, the following factors ought to be taken into consideration: -
 - a. A child must be at least six (6) weeks old and free for adoption;
 - b. The child concerned must have been in the continuous care and control of the applicant within Kenya for a period of three (3) consecutive months preceding the filing of the application; and
 - c. Both the child and the applicant have been evaluated and assessed by a registered adoption society in Kenya.
12. In the instant adoption cause, the minor is a grandson of the applicants whose biological mother lives and works in the United States of America. The applicants state that they have lived with the minor since he was two (2) years old. It is therefore my considered view that this is a kinship cum family adoption matter. A kinship adoption is a domestic adoption and the requirements for kinship adoption are set out in Part XIV of the Children's Act as follows:-
 - a. The applicant is above twenty five years of age and below sixty five years of age;
 - b. The applicant is a relative of the child;
 - c. The child has been declared free for adoption;



- d. That all the reports and evaluations conducted indicate that it is in the best interests of the child that the applicant adopts the child as demonstrated by the fact that they are members of one family, and that the applicant has been educating and providing for the child since birth
 - e. The child has given her consent to being adopted by the applicant;
 - f. The biological parents have given their consent.
13. In deciding upon any matter involving a child court are obliged to give priority to the best interests of the child pursuant to Article 53 of *the Constitution*. The minor has been declared free for adoption by KKPI Adoption Agency vide certificate serial number 841. The said adoption agency carried out an interview and home visit of the applicants and has recommended that the applicants are suitable and eligible to adopt the minor who is free for adoption. The adoption agency has supported their findings by filing their report and Certificate of Acknowledgement dated 5th November 2023. Furthermore, the Department of Children's Services in Kiambu made a social inquiry report and in its report dated 28th May 2024 requested by the court recommended the applicants for the adoption of the minor.
 14. The biological mother of the minor one Faith Wanjiru Kamau has given her consent for the applicants to adopt the minor. The other children of the applicants have given consent to the adoption of the minor. It is evident that the whereabouts of the father of the minor are unknown as he was arrested and taken to custody in Industrial Area and have not heard of him since then.
 15. Similarly, the Guardian ad litem has recommended adoption of the child by the applicants as being in the best interests of the child. This is the person who has been given legal standing to make statements on behalf of the child. The reports show that the applicants have taken care of the minor since he was of tender age. The minor is now aged eleven (11). It is evident from the evidence presented herein that the applicants have the financial capability to take care of the child; that their home environment is safe secure and satisfactory; that the child relates well with the applicants and that the applicants have not received or agreed to receive any reward in consideration for the adoption.
 16. It is my considered view that the applicant has complied with all the requirements of the law for purposes of adoption and that it is in the best interests of the child that the applicants be permitted to adopt the child.
 17. Accordingly, the Originating Summons dated 18th December 2024 is allowed in the following terms:-
 - a. That the applicants herein are hereby authorized to adopt IN, a minor.
 - b. That ENK is hereby appointed as the legal guardian and next of Kin.
 - c. That the applicants be issued with a passport for IN, the minor who was born in Kenya.
 - d. That this adoption be entered in the Adopted Children's register by the Registrar General forthwith.
 18. It is hereby so ordered.

JUDGMENT DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 13TH DAY OF FEBRUARY 2025.

F. MUCHEMI

JUDGE

