



**In re Baby SS (Child) (Adoption Cause E020 of 2024)
[2025] KEHC 1507 (KLR) (5 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 1507 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E020 OF 2024
MW MUIGAI, J
FEBRUARY 5, 2025
THE MATTER OF CHILDREN ACT 2022
AND
IN THE MATTER OF BABY SS (CHILD)**

IN THE MATTER OF

**SOO 1ST APPLICANT
ABM 2ND APPLICANT**

JUDGMENT

1. The Applicants herein, SOO - ID. Number 220XXX87 and ABM- ID. Number 218XXX93 (“the Applicants”) sought by their application to be allowed by this Court to adopt SS aka Baby LM aka P (Child) (hereafter “the child”).
2. Vide Originating Summons application dated 1st August, 2024 the Applicants sought among other orders; that GWK ID 132XXX91 be appointed as the Guardian *ad Litem* in this case; that the Applicants herein SOO and ABM- be authorized to adopt SS aka Baby LM aka P and the baby be known as LEO.
3. And that the particulars be entered in the adopted children’s Register accordingly.
4. The Applicants their Exparte Chamber Summons dated 22/07/2024 further sought orders that MS GWK ID No 132XXX91 be appointed as the Guardian *ad Litem* of the child and pending the granting of the Adoption Order; that the Guardian *ad Litem* to prepare and present a Report. The Director of Children’s Department to investigate the case and file a Report; The Adoption Agency to present its Report.
5. The Court granted above mentioned orders on 25/9/2024.



6. The minor herein (Baby SS) the subject of the present adoption proceedings is estimated to have been born on 01/05/2023. She was born at Kajiado County referral Hospital to a minor as a result of incest defilement & child pregnancy. The child's mother LM was 12 years old at the time she became pregnant after she was defiled by her Uncle.
7. The child was abandoned by the mother in Kajiado County Referral Hospital for 48 days. The Hospital's Social Workers contacted the Sub County Office - Kajiado Central and high- lighted the child's plight.
8. The Children's Office managed to get the child placement at Mahali Pa Maisha Infant Rescue.
9. On 20/6/2023 Kajiado Children Court issued Care & Protection Order E051/2023 and the child was released from Kajiado Hospital to Mahali Pa Maisha Infant Rescue.
10. The matter was reported and booked at Kajiado Police Station OB No 24/21/06/2023. The Perpetrator was arrested charged and placed out on bond, the child was taken up by Buckner Kenya Adoption Society who issued Certificate Freeing the Child for Adoption Serial No 07X0
11. The mother and grandmother of the child released the subject child to the Hospital and stated that it was taboo to take care of the child born from incest and therefore the family could not care for the child.
12. The following documents were availed from Buckner Kenya Adoption Services for Baby SS:
 1. Acknowledgement of Birth notification no 31XXX53
 2. Birth Certificate No 00XXX27 of Baby SS aka LM
 3. Kenya Police Service letter of 9/11/2023 to Director Mahali Pa Maisha Kitengela.
 4. Kenya Police letter dated 21/6/2023 request for placement of a child in need of Care & Protection
 5. Certificate Freeing the Child for Adoption Serial No 07X0
 6. Court order PM's Court Kajiado for placement of the child in Children home - Mahali Pa Maisha.
 7. County Government of Kajiado/Department of health service letter dated 21/06/2023
 8. Discharge Summary from Kajiado County Hospital
 9. Mahali Pa Maisha Admission Form of the Subject Child
 10. Registration Certificate of Charitable children's Institution NCCS C No 0022
 11. Letter from Kajiado Central Sub County to CM Kajiado Court
 12. Care & Protection Order from CM Kajiado Children Court EO5/2023 of 4/10/2023
13. The Applicants herein SOO and ABM are residents of Syokimau at Lower Rafiki Road Machakos County The Applicants annexed the following documents in support of her application;
 1. Applicants' copy of Identification cards
 2. Applicants Certificate of marriage serial No.33XX05
 3. Applicants certificate of good conduct of 19/10/2023
 4. Applicants birth certificate of LLO



5. Applicants medical Reports
6. Guardian *ad Litem* letter of consent
7. Letter of the Proposed Legal Guardian
8. Letter of Recommendation from Nairobi Chapel of 4/11/2020
9. Letter of 4/9/2023 from maternal grandmother in support of adoption.
10. Letter of Application for Adoption to Buckner Kenya
11. Bank Statements by the Applicants
14. The Guardian *ad Litem*, MS GWK who was appointed by this Court on 25/9/2024, filed the Statutory Report dated 18/11/2024 in which she visited the Applicants home in Lower Mungiki Road, Syokimau, Machakos County and found Applicants and child herein, S, L 12 years old and L aged 4 years old.
15. The child seemed to have adjusted well in the family and she observed interaction among the children and they shared a strong bond. The child was/is well taken care of and adjusted well to the new surroundings. The Guardian *ad Litem* was of the opinion that the proposed adoption of the child by the Applicants would be in the best interest of the child was in favor of the adoption.
16. Buckner Kenya Adoption Society/Services prepared and filed in Court a favorable Report dated 18/11/2024 in respect of the proposed adoption of the child by the Applicants.
17. The Report contains the Applicants family background, education and occupation background. On 20/11/2024, Ms Mary Kamiri Programme Manager from the Agency appeared in Court in support of these Adoption proceedings.
18. The initial Report outlined, the circumstances that led to abandonment of Baby S at Kajiado Hospital and placement with Mahali Pa Maisha as detailed above. The Affidavit of Consent from the child's grandmother, as the mother was underage was /is attached to the Report.
19. In their Report, the Applicants had approached the Buckner Kenya Adoption Society/Services vide letter of 7/6/2023 to formalize kinship adoption of LH and adopt Baby S.
20. Relevant interview was conducting with an aim of assessing the suitability to adopt in accordance with Section 184 of the Children's Act 2022. The Applicants registered their marriage on 17/7/2028 vide Certificate of Marriage Serial No 33XX05.
21. The Applicants are residents of Lower Mungiki Road, Syokimau, Machakos County Nyeri. They reside a 4 bedroom furnished home with an office, carpentry and welding section and gardening. The Applicants have not been blessed with biological children.
22. The prospective adoptive father works as Sales Manager and now does Consultancy while the prospective Adoptive mother is Sales Manager. The Attached Financial Statements confirm reasonable combined income to comfortably sustain the family. The Applicants are socially stable, morally upright, they fellowship at Nairobi Chapel, Syokimau Branch and have attached clean Certificates of Good Conduct.



23. The Applicants motivation towards adoption is to be able to exercise their parental responsibility and grow their family. The Applicants have been taking care of the child since she was placed under their care and have proved to be capable and willing to take care of this child.
24. The Applicants have no major health concern as per the medical Reports attached. The Applicants extended family are in support of these Adoption process. The Adoption Agency recommended the Adoption.
25. The Applicants appointed AM ID 281XXX28 & MA ID 299XXX62 as Legal Guardian of the child in case of any eventuality. They both filed Affidavit of Consent.
26. The Director of Children's Services filed their report dated 22/10/2024 in respect of the proposed adoption of the child by the Applicants. Ms Emily Kimanzi the Machakos Sub-County Children's Officer appeared in Court on 18/11/2024. She told the Court that the Applicants have been living with the child for 2 years. The bonding has been done.
27. Similarly, the Report indicated that the Applicants were married on 17/7/2018. According to the Applicants after getting married they conceived but they lost the pregnancy and this is the only time they got pregnant. The Applicants motivation to adopt is a desire to be parents and to own their own child to share their lives and resources with a needy child. The Applicants extended family accepted the minor as part of the family.
28. The Applicants live in their own apartment building within Syokimau Town. The house is supplied with all the necessary amenities. The child has settled and bonded well. The Applicants have engaged in 2nd Adoption and the 3 children have bonded well.
29. The Applicants reside on a piece of land they own and have a 4 bedroomed mansion. They own a flat at Makadara 2 vehicles and own another Plot.
30. The Applicants decided to add Baby S, a minor to their family so that they find fulfilment as parents. The child reintegrated well into the family and have been fostering the child since 2023. The Report was/is in favour of the adoption as it is in the best interest of the child and she will grow in a family as opposed to a Care Institution.
31. All the Statutory Reports filed in respect of the proposed adoption of the child by the Applicants recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants fulfilled all the legal requirements in relation to the adoption of the child.
32. The home visits by the Guardian *ad Litem*, the Adoption Society Representative and the Director of the Children's Services established that the Applicant is financially and socially stable and has emotional capability to provide for the upkeep and education of the child and give parental care.
33. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicant have had the custody of the child, the child has bonded well. The child considers the Applicants to be his parents.

Disposition

1. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application.
2. The Applicants, SOO and ABM are hereby allowed to adopt BABY SS.



3. Henceforth, the child shall be known as LEO
4. The child's date of birth is 1/5/2023 and the place of birth shall be Kajiado.
5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.
6. AM & MA shall be Legal Guardians of the child should such eventuality arise.
7. This Court directs the Registrar General to duly enter this order in the Adoption Register.
8. That the Directorate of Children Services to carry out supervision on the said adoption and file a report on the ongoing safety/security of the child within one year of the Adoption in the best interests of the child under Section 8 of Children's Act 2022.
9. The Guardian *ad Litem* is hereby discharged.

It is so ordered.

JUDGMENT DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 5TH FEBRUARY 2025, (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

