



In re BM (Adoption Cause E001 of 2024) [2025] KEHC 4788 (KLR) (21 March 2025) (Directions)

Neutral citation: [2025] KEHC 4788 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAROK
ADOPTION CAUSE E001 OF 2024
CM KARIUKI, J
MARCH 21, 2025
IN THE MATTER OF APPLICATION FOR GUARDIANSHIP TO B. M.**

**IN THE MATTER OF
AWKS APPLICANT**

DIRECTIONS

1. The instant matter came for mention/directions on 16 December 2024 before Gikonyo, J. By then, the applications pending were Originating Summons dated 1 July 2024, Originating Summons dated 21 November 2024, and Notice of Motion dated 6 December 2024.
2. After deliberations of parties' advocates and the presiding judge, the judge recorded a consensus/consent order including all applications in the following manner: -
 - i. Applications herein were abandoned.
 - ii. Instead, parties agree with that.
 - a. The parties shall share the time for holidays with the child on a 50% basis, i.e., April, August, and December holidays. For clarity, each side (paternal and maternal) will have the child for half the holiday time (period).
 - b. The minor shall be enrolled at [Particulars Withheld]. Once HK obtains the interview date, Ms. Saika's client shall ensure the child attends the interview. Both BKN and AWKS shall be noted in the school record as the minor's guardians. Visiting the child in school should be on a mutually agreed-upon formula.
 - c. The head of the children's office must file a report within 21 days of today. An earlier report is expunged.
3. Subsequently, two sets of children's officer reports were filed by -
 - i. Narok – County Children's Coordinator dated 10 February 2025.



ii. Children officer – Kajiado Sub- County stamped 7 February 2025.

The reports indicate that the orders of 16 December 2024 were not complied with, and thus, accusations and counteraccusations have been exchanged between the parties.

4. The court occasioned to summon all the parties in chambers and attendance of their advocates and the minor subject. In the presence of a female court clerk, the court also had in camera, talking to the minor in chambers in the absence of the parties.

The child was apparently fearful and hardly responsible. She appeared to be in a state of fear of the unknown.

5. I heard the parties and advocates present. I have also perused the two reports by the children officers alluded to above.

The reports recommended; -

1. As the children's office, we have no objection, and we wish your Honourable court to consider the best interest of the child in the above matter.
 - i. Legal Guardianship: Based on the child's best interests, the High Court should grant guardianship of the minor, B. M., to BKN and PMK per Section 122 of the *Children Act, 2022*.
 - ii. Access to the minor: The applicant (maternal grandmother) should only have access to the minor during school holidays. The applicant should also return the minor one week before school reopens to ensure proper school preparation. The land November – December school holiday should be shared equally, with the minor spending one month with the maternal grandmother and one month with the paternal grandmother.
 - iii. School enrolment: The minor should be immediately returned to the respondents so she can resume education at [Particulars Withheld], as previously planned.
 - iv. Child's Psychological Well-being: Given that the minor lost both parents at a young age, there is a need to consider her emotional and psychosocial well-being. The transition between guardians and the loss of her parents may impact her mental health. It is recommended that the child undergo psychosocial support and counseling to help her process grief and adjust to her living arrangements. In this regard, BKN should ensure that the child undergoes professional counseling.
 - v. This honorable court may make such other orders as it deems fit to ensure the continued welfare and best interests of the minor.
6. The core issue is the guardianship of the minor child, which, under the law and *the constitution* of Kenya, 2010, is based on the child's best interest.
7. The orders of 16 December 2024 made by consensus of the parties and their advocates on record, were based on the best wellness of the child. None of the parties has sought review or appeal against the same. Thus, the orders duly stand as written and for enforcement.

However, the child was to be enrolled in [Particulars Withheld], but there may not be a space for the minor. The alternative recommended school in the reports is [Particulars Withheld].



8. This court maintains the orders of Gikonyo, J, as made and issued on 16 December 2025, save for the adjustment that the minor, if she cannot get a space in [Particulars Withheld], should be enrolled in [Particulars Withheld].

Thus, the orders will be as follows: -

- i. Applications were abandoned.
 - ii. Instead, the parties agreed with Gikonyo J orders replicated herein with some adjustments.
 - a. The parties shall share the time for holidays with the child on a 50% ;50% basis, i.e., April, August, and December holidays. For clarity, each side (paternal and maternal) will have the child for half the holiday time(period).
 - b. The minor shall be enrolled at [Particulars Withheld] or [Particulars Withheld]. Once HK obtains an interview date, Ms. Saika's client shall hand over the child to attend the interview and/or enrollment. Both BKN and AWKS shall be noted in the school record as the minor's guardians. Visiting the child in school should be on a mutually agreed-upon formula.
9. For smooth enforcement of the court's orders, once space is available for the interview and /or enrolment in the said school(s). The Children's Officer Narok County will, with the assistant of the OCS Narok Police Station, if need be, witness and facilitate the handover of the minor to BKN.
10. If any further court order is deemed necessary, the parties will have liberty to apply.

Mention on 8 April 2025 for the Children's Officer report on state of the order compliance.

DATED, DELIVERED AND SIGNED THIS 21ST DAY OF MARCH, 2025

HON. CHARLES KARIUKI

JUDGE

In the presence of:

