



**In re L alias DGN (Baby) (Adoption Cause E004 of 2024)
[2025] KEHC 5679 (KLR) (8 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5679 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
ADOPTION CAUSE E004 OF 2024
FN MUCHEMI, J
MAY 8, 2025
IN THE MATTER OF ADOPTION OF BABY L ALIAS BABY DGN**

IN THE MATTER OF

JNN 1ST APPLICANT

RKK 2ND APPLICANT

JUDGMENT

Brief facts

1. The Originating Summons for determination is dated 19th November 2024 seeks for orders of adoption of adopt Baby L (the child) to be known as DGN as well as orders directing the Registrar General to make an entry in the Adopted Children’s Register.

The Applicants’ Case

2. Baby L was found abandoned on 14th July 2016 at the entrance of a shop of one EWM at XXXXXXXXXXXX area of KXXXXXXXXXXXX trading centre xxxxx location, Mathioya sub location. EWM made a report of the abandonment and rescue of the child at Kiriani police station which was recorded in the occurrence book as OB No 13/14/7/2016. The Murang’a East sub county Children Office was notified of the incident and they secured temporary care and protection to the Child Welfare Society of Kenya (CWSK) who rescued the child and placed him at CWSK Murang’a TPS. Through an application by the sub county children officer, the child was committed to CWSK Murang’a TPS on 17th March 2017 under Protection & Care Case No 10 of 2017.
3. The applicants aver that the Kiriani police station confirmed that they had not managed to trace the biological parents of the child and that no person or relative has claimed the child since she was rescued. Furthermore, tracing efforts were made by CWSK through good Samaritan, the area chief and media tracing on MyGov of 11/04/2017, MyGov of 16/05/2017 and Sunday Nation of 23/07/2017 but the child has remained unclaimed.



4. The applicants contend that they are husband and wife and they have been married since 11th April 2009. They state that they both earn a living with the male applicant being a plumber by trade while the female applicant is a secretary. The couple further state that they have had care and control of the minor since 14th December 2017. Furthermore, the applicants state that they are in good physical health condition and are emotionally fit to be parents of the child. Additionally, the applicants state that they are financially stable and will be able to provide fully for the child's needs.
5. The applicants contend that the child was declared free for adoption and that the Child Welfare Society of Kenya supports their application to adopt the child. The applicants further proposed that one Lillian Karimi Murage be appointed the legal guardian of the child in the event of death or incapacity before the child is of full age. Lillian Karimi Murage has filed a consent to act as guardian *ad litem* and an affidavit in support of the instant application for adoption.

Issue for determination

6. The main issue for determination is whether the applicants have satisfied the legal requirements under the Children's Act to be granted the adoption order.

The Law

7. 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.

8. Thus for an adoption order to ensue the following 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.
9. In the instant adoption cause, the minor was abandoned, a fact confirmed by at Kiriaini Police Station vide a letter and OB No 13/14/7/2016. Similarly, the abandonment of Baby L is reiterated and confirmed by the Child Welfare Society in the Certificate of Declaring a Child Free for Adoption dated 9/11/2017, a report declaring the child available for adoption and a home study report on the applicants both dated 12/2/2025. This fact has been confirmed by a Social Enquiry Report by the Department of Children's Services Kiambu County dated 7th February 2025. Evidently, neither the police nor the institution to whom the committal for care and protection were given, have received a claim for the child. As such, legal abandonment may be presumed pursuant to Section 187(2)(a) of the [Children Act](#) which provides:-

Abandonment shall be presumed in any case where the child appears to have been abandoned at birth or if the person or institution having care and possession of the child, that institution has lost all contact with a parent or guardian of the child for a period exceeding one year.
10. Having confirmed that the minor has been abandoned in law, the provision of consent is hereby dispensed with as required under Section 187(3) of the [Children Act](#).



11. I have noted that the applicants were born in 18/04/1980 and 02/08/1979 respectively and are 45 and 46 years old respectively. Pursuant to Section 186 (2) of the Children's Act they are within the age limit eligible to adopt being an adult having attained the age of twenty five (25) years and is at least 21 years older than the child but has not attained the age of sixty five (65) years. It is also worth noting that the applicants have had uninterrupted care and custody of the child for 7 years and are the only parents the child knows.
12. Furthermore, the Department of Children's Services in its report requested by the court recommended the applicants for the adoption of the child. Similarly, the Guardian *ad litem* has recommended adoption of the child by the applicants as being in the best interests of the child. These are the persons who have been given legal standing to make statements on behalf of the child. The reports show that the applicants have taken the child in their home; that they have the financial capability to take care of the child; that their home environment is safe secure as well as satisfactory; that the child is relating well with the applicants and that the applicants have not received or agreed to receive any reward in consideration for the adoption.
13. Consequently, If I find that the applicants have 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 authorized to adopt the child. The originating summons dated 19th November 2024 is allowed in the following terms: -
 - a. That the applicants are hereby authorized to adopt baby L who shall be known as DGN .
 - b. That the child's date of birth is hereby declared a 10th August 2016 and place of birth be Murang'a Level 3 Hospital.
 - c. That PNM is hereby appointed the legal gurdian of baby DGN .
 - d. That the consent of he biological parents is hereby dispensed with.
 - e. That the guardian *ad litem* is hereby discharged.
 - f. That the Registrar General is hereby directed to make the appropriate entries in the Adopted Children's register.
14. It is hereby so ordered.

JUDGEMENT DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 8TH DAY OF MAY 2025.

F. MUCHEMI

JUDGE

