



**In re MWM (Minor) (Adoption Cause E256 of 2024)  
[2025] KEHC 5454 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5454 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E256 OF 2024  
H NAMISI, J  
MAY 2, 2025  
IN THE MATTER OF KINSHIP ADOPTION OF M.W.M. (MINOR)**

**IN THE MATTER OF**

**FWM ..... APPLICANT**

**JUDGMENT**

1. Before this Court is the Originating Summons dated 8<sup>th</sup> November 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
  - i. Spent;
  - ii. Spent
  - iii. That the Applicant be authorized to adopt M.W.M. to be known as M.W.M;
  - iv. That the child be presumed a Kenyan citizen by birth;
  - v. That the child's date of birth be 6 September 2010 and the place of birth be Nairobi;
  - vi. That the Registrar General be directed to enter the adoption in the Adopted Children Register;
  - vii. That the Director Immigration be authorized to issue the child with a Kenyan passport;
  - viii. That CNM be appointed legal guardian of the child in the event of the death or incapacity of the Applicant before the child is of age or independent.

**The Child**

2. The child (female) was born on 6<sup>th</sup> September 2010, to A.M.M. and K.H.B., the father and mother, respectively. Both biological parents are deceased. The child has been under the care of her paternal grandparents, who are advanced in age and have meagre income.



3. At present, the child is 14 years old, enrolled at SCSS Academy. The child knows the Applicant, who is her paternal aunt. The child wrote a letter dated 2<sup>nd</sup> September 2024, consenting to the adoption. The child also appeared before the Court to confirm her consent.

### **The Applicant**

4. The Applicant is a Kenyan citizen aged 47 years, residing in Milimani-Kitengela. She ekes a living as an Accountant. She has two biological children: N.M., who is 16 years old, and Z.N.E., who is 4 years old.
5. The Applicant's motivation for adopting the child is to legalize the relationship between her and the child because she took over as the child's parent after the demise of her parents. The Applicant wishes that the child enjoy all the legal benefits that her biological children enjoy, such as insurance coverage and inheritance rights. She confirmed that she understood the implications of an adoption order and that the same is irreversible.

### **The Adoption Application**

6. I have considered the Originating Summons, the evidence on record, as well as the various reports filed.
7. The duty of this Court is to analyze the material before it to determine whether the Applicant is a suitable adoptive parent. The Guardian *ad litem* confidently states that the Applicant is a staunch Catholic and she endeavors to bring the children and her parents to either Don Bosco or St. Monica in Kitengela for mass every Sunday.
8. The Applicant presented copies of title deeds, bank account details, Police Clearance Certificate as well as recommendations, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose that the Applicant is financially, socially, physically and mentally fit to adopt the child.
9. Additionally, pursuant to section 195 of the *Children Act*, the Applicant provided letters of consent from C.N.M., agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicant. C.N.M. is an aunt to the child (Applicant's sister). The proposed legal guardian also appeared before the Court to confirm her consent.
10. From the material availed, I am satisfied that the Applicants are suitable adoptive parents.

### **Analysis and Determination**

11. The child herein was born in Kenya on 6<sup>th</sup> September 2010 to Kenyan parents. She is, therefore, a citizen of Kenya by birth.
12. In deciding any matter involving a child, the Court is obligated to give priority to the best interests of the child. Section 8 of the *Children Act* provides:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies–

The best interests of the child shall be the primary consideration;

The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule;

All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to:-



- i. Safeguard and promote the rights and welfare of the child;
  - ii. Conserve and promote the welfare of the child; and
  - iii. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.
13. I have considered the Reports filed by the Adoption Agency, the Guardian *ad litem*, and the Director of Children Services, all of which were positive and recommended the adoption. I was able to talk to the child online, and I am satisfied that the child consents to this adoption and is healthy, well-groomed and happy.
14. It is, therefore, my view that the adoption does serve the best interests of the child. Accordingly, I allow the Summons and make the following orders:
  - i. That the Applicant, F.W.M., is allowed to adopt the child identified as M.W.M.
  - ii. The child is declared to be a Kenyan citizen by birth, entitled to all the rights and privileges under the Constitution of Kenya and all applicable laws;
  - iii. C.N.M. is appointed as the legal Guardian of the child;
  - iv. The Guardian *ad litem* is hereby discharged;
  - v. The Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;
  - vi. The child to be issued with a Kenyan passport.

**DATED AND DELIVERED AT NAIROBI THIS 2 DAY OF MAY 2025**

**HELENE R. NAMISI**

**JUDGE**

Delivered on virtual platform in the presence of:

Ms. Ondeché h/b Kiguatha.....for the Applicant

Libertine Achieng for the Respondents

