



**In re JB (Child) (Adoption Cause E012 of 2023)
[2024] KEHC 611 (KLR) (19 January 2024) (Judgment)**

Neutral citation: [2024] KEHC 611 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E012 OF 2023**

**MW MUIGAI, J
JANUARY 19, 2024**

IN THE MATTER OF

**RKM 1ST APPLICANT
JNM 2ND APPLICANT**

JUDGMENT

1. The Applicants, RKM – ID. Number 21XXXX and JNM - ID. Number 23XXXX (“the Applicants”) sought by their application to be allowed by this Court to adopt Baby JB (hereafter “the child”).
2. Vide Originating Summons application dated 4th May, 2023 the Applicants sought among other orders; that SKM be appointed as the Guardian Ad litem in this case, that the Applicants herein RKM and JNM be authorized to adopt baby J and the baby be renamed BMK; that JMM and EMN be appointed as the Legal Guardians of the child; that this Court directs the Director of Children’s Services to investigate the case and file a report and the Registrar General makes an entry recording this adoption in Adopted Children’s Register. SKM of ID No.16XXXX was appointed by this Court as the Guardian Ad Litem on 11/07/2023.
3. The child (JB) who is the subject of these adoption proceedings was presumably born on 10th October, 2021. The child was found abandoned at [particulars withhed] Market, Meru County. The child was rescued by police officers from Karachi Police Post where the matter was reported vide OB XXXX/2021 and the child rushed to Nyambene Sub-County Hospital for medical examination. The child was later referred to Meru Teaching & Referral Hospital on 4th December, 2021. The Imenti Sub-County Children’s Officer sought a vacancy at Neema Infant Rescue Centre Nanyuki and the minor was admitted at the said rescue Centre as a child in need of care and protection on 10th December, 2021. On 17/02/2022 the Children’s Court at Tigania committed the minor to Neema House infant Rescue Centre vide Protection and Care Case Number E002 of 2022. The Karachi Police Post in their final police letter dated 2/08/2022 stated that no one went to claim for the abandoned minor and their efforts to trace the child’s relatives proved futile.



4. The minor was freed for adoption by the Kenya Children's home Adoption Society's Case Committee on its sitting of 17th August, 2022 vide Certificate Declaring a Child free for Adoption Serial No.867.
5. The Kenya Children's Homes Adoption Society relied on the following documents in respect of baby Jabali Baraka;
 1. Committal summary
 2. Letter from Imenti North Children Office to the Manager, Neema House Infant Rescue Centre for committal of Baby Jabali
 3. Committal Order from Tigania Children's Court
 4. Final Police letter dated 2/08/2022
 5. Certificate Declaring Child free for Adoption serial no.867
6. The Applicants herein RKM and JNM are residents of [particulars withheld] location, Yatta Sub County within Machakos County. They are husband and wife - married on 22nd September, 2022 at Registrar's Office. The Applicants annexed the following documents in support of their application; Certificate of marriage serial No. 5XXXXX Care Agreement Medical Reports for both Applicants Police clearance Certificates for both Applicants Copies of Identification Cards for both Applicants Guardianship confirmation form Copies of identification Card for the Legal Guardians Consent to act as legal Guardians
7. Pursuant to Section 186 of the *Children Act* 2022 of the *Children Act*, Kenya Children's Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by the Applicants.
8. The Guardian Ad Litem, SKM also filed the Statutory Report in which she noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.
9. The Kenya Children's Home Adoption Society filed their report dated 29/06/2023 in Court on 26/07/2023. Mr. Ndotono the Adoption Programme Officer appeared in Court on 26th September, 2023 in respect of these Adoption Proceedings.
10. According to the Report the Applicants made a joint adoption application to Kenya Children's Home Adoption Society on 11/01/2022. The Applicants applied to be placed with a male child with a view to eventually adopt. An Interview session was conducted on 2/02/2022 at the Applicants home in Kitangi. The Applicants were found eligible by the Society Case Committee sitting on 20th April, 2022 and were subsequently placed with the minor on 1/09/2022. Prior to placement baby Jabali Baraka was declared free for adoption by the Society's case coming sitting on 17/08/2022. The Applicants have been consistently updating the Adoption Society on the child's progress through visits to the Adoption Society on 7th October, 2022 and 14/11/2022. The declaration interview was conducted during their third visit on 25/01/2023. The Applicants are a couple having been married in the year 2003 under Kamba customary law and later solemnized their marriage at the Registrar's office on 22/09/2022 vide Certificate of Marriage No. 52XXXX. The Applicants have not been blessed with any biological child. Their motivation towards adoption is their need to become parents as they have not been able to have a child of their own and be able to offer a child a home and love. The Applicants explained that they have lived with nieces and nephews occasionally. Over the period they have had the minor under their care they have proved to have the need experience in parenting. The Applicants lives in their own 2 roomed permanent house in [particulars withheld] village. They use solar powered lanterns for lighting



and their domestic water is fetched from a nearby river once their rain water reservoirs run dry. The 1st Applicant is a businessman while the 2nd Applicant is a farmer. Their Net Income is kshs.17,000/-. The Applicants are confirmed to be of good general health (medical reports are attached), they do not have Criminal Record (police clearance reports attached). The Applicants are Christians fellowshipping at Worldwide Gospel Church. The Applicants extended family are supportive of the Adoption whereby JMM (1st applicant's young brother) and his wife EMN have accepted to be the Legal Guardians of the minor. They confirmed that they understand their roles as Legal Guardians and have submitted the requisite documents. The Applicants are stable and productive family with the love, space and dedication to continue to provide the minor with a comfortable life and an environment to thrive in. PN, SM and JK applauded them for their hard work, Christian staunchness and financial stability. The Applicants herein have proven their ability to take care and provide parental responsibility to baby JB. The Kenya Children's Homes Adoption Society committee analyzed the case on 15th February, 2023 and was satisfied that the Applicants proceed to court to finalize the process. The Adoption Agency recommended the Adoption.

11. The Director of Children's Services filed the report dated 16/09/2023 in respect of the proposed adoption of baby Jabali Baraka by the Applicants herein. Ms Constance N. Muasa the Yatta Sub-County Children's Officer appeared in Court on 26/09/2023 in respect of the proposed adoption of the child by the Applicants. She told the Court that she visited the Applicants home in Ikombe on 14/09/2023 and found the minor with the Adoptive mother and was satisfied with the bonding which had taken place between the child and the mother and other relatives in the family.
12. Similarly the Report indicated that the Applicants are a married couple vide marriage certificate Number 527183. They do not have a child of their own due to medical reasons. The applicants are a medium operating a business and farming respectively and they are able to sustain themselves and the child within their means. Their motivation to adopt is to help a needy child and give them a family. During the home visits it was observed that the child is happy and bonding has taken place. The Applicants understand that an adoption order grants the child rights to inheritance and they have no objection to that. This adoption is in the interest of the child herein. They recommended the adoption.
13. The Guardian Ad Litem, SKM filed her Report dated 11th July, 2023 in support of these Adoption proceedings. She stated that she has known the Applicants for over 10 years. The Applicants are Christians and are bringing up the child under the Christian values. The minor is currently 1½ years and is yet to join school. The applicants have bonded well with the minor. The Applicants have support from both the immediate and extended family which has fully welcomed the minor as part of the family. The Guardian Ad litem recommended the adoption.
14. The Legal Guardians JMM & EMN of Identification Card Numbers 30XXXX and 31XXXX respectively are a married couple (brother and sister in law to the Applicants) they filed their consents and Affidavit of fitness on 10th May, 2023. JMM appeared in Court on 26/09/2023 and stated that they are ready to take care of the child if any eventuality happens.
15. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allow 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 have fulfilled all the legal requirements relative to the adoption of the child.
16. The home visits by the Guardian ad litem, the Adoption Society Representative and the Director of the Children's Services established that the Applicants are financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. This



Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants 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 Applicants. Hence, this Court allows the Applicant's application.
2. The Applicants, RKM and JMM are hereby allowed to adopt Baby JB.
3. Henceforth, the child shall be known as BMK.
4. The child's date of birth is 10th October, 2021 and the place of birth shall be Karachi, Meru.
5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.
6. JMM & EMN shall be the 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 19TH DAY OF JANUARY, 2024 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

