



**In re SA (Child) (Adoption Cause E002 of 2023)
[2024] KEHC 989 (KLR) (9 February 2024) (Judgment)**

Neutral citation: [2024] KEHC 989 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
ADOPTION CAUSE E002 OF 2023
AC MRIMA, J
FEBRUARY 9, 2024**

IN THE MATTER OF

**EOO 1ST APPLICANT
DOO 2ND APPLICANT**

JUDGMENT

1. By way of an Originating Summons dated 9th November, 2023 brought under the provisions of Sections 154, 156(1), 158(1)a & (4), 162, 163, 164(1) and 170 of the Children’s Act and Section 24 of the *Interpretation and General Provisions Act*, Cap. 2 of the Laws of Kenya, the Applicants herein sought the following orders: -
 1. That the applicant be authorized to adopt baby SA.
 2. That the Director of Children Services, Ministry of Gender and Social Development do investigate the applicant’s fitness to adopt and file a report.
 3. That the court be pleased to make any further orders it deems necessary.
2. The Applicants are a couple. The 1st Applicant, EOO, is a sister to one PRM, the mother of the child. The 2nd Applicant, DOO, is the husband to the 1st Applicant.
3. The said PRM died on 4th December, 2014 when the child was around 5 years old. Since then, the child has been under the continuous custody, care and support of the Applicants as the whereabouts of the father of the child remain unknown.
4. The Applicants also filed their respective Statements together with an evenly dated Chamber Summons seeking inter alia that Peter Gundu and BM be appointed as a joint Guardians Ad-Litem. The proposed Guardians filed their respective consents in affirmation.



5. This Court has carefully perused all the documents filed in this matter. They include a Report by Buckner Kenya Adoption Services, an Adoption Society duly registered in Kenya. The Report detailed the steps taken, including meetings attended, in the course of ascertaining whether the Child was free for adoption and the Applicants were fit persons. All the outcomes were in the affirmative. A Certificate of Declaring the Child Free for Adoption dated 6th October, 2023 was accordingly issued.
6. The Applicants were extensively interviewed by the Adoption Society. There was a home visit as well. The Child was also interviewed and was eager to continue living with the Applicants as her parents.
7. This Court also interviewed the 1st Applicant. It was satisfied of the Applicants' desire to provide for the Child. To this Court, the Applicants have all along been acting in the best interests of the Child.
8. The Applicants are people of means. The 1st Applicant is in farming and the 2nd Applicant works with the United Nations currently attached in Nigeria.
9. In the end, this Court in being guided by the constitutional obligation under Article 53(2) that a child's best interests are of paramount importance in every matter concerning the child, given the nature of evidence tendered and in regard to the law generally, this Court is satisfied of the following issues in this matter: -
 - i. That it is in the child's best interests that she be adopted.
 - ii. That, the Child is free for adoption.
 - iii. That, the Applicants are suitable persons to adopt the child.
 - iv. That, there are two persons willing to be the Guardians of the child in the event the Applicants die or become incapacitated before the child attains the age of eighteen years.
 - v. All the legal requirements towards the adoption of the child by the Applicants have been met.
10. The Court is additionally satisfied that this is a kinship adoption under Section 2 of the [Children Act](#), a fact that reinforces the assurance that the interests of the Child will be further taken care of.
11. Deriving from the foregoing, this Court hereby makes the following final orders: -
 - a. An Adoption Order be and is hereby issued under Section 183 of the [Children Act](#) vesting the parental rights and responsibilities relating to the child, Shantelle Ayuma, in the joint Applicants herein, EOO and DOO.
 - b. Peter Gundu and BM Awinja are hereby appointed as the joint Guardians of the child in the event the Applicants die or become incapacitated before the child attains the age of eighteen years.
 - c. This file is marked as closed.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT KITALE THIS 9TH DAY OF FEBRUARY, 2024.

A. C. MRIMA

JUDGE

Judgment virtually delivered in the presence of:

Miss. Ngeiywo, Counsel for the Applicant.



Duke – Court Assistant.

