



REPUBLIC OF KENYA



KENYA LAW
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**In re AS (Child) (Adoption Cause 1B of 2021)
[2024] KEHC 2556 (KLR) (14 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2556 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
ADOPTION CAUSE 1B OF 2021
JK SERGON, J
MARCH 14, 2024
IN THE MATTER OF THE CHILDREN ACT (ACT NO. 8 OF 2001)
AND
ADOPTION OF BABY AS (CHILD)**

IN THE MATTER OF

**N. N. M 1ST APPLICANT
S. K. K 2ND APPLICANT**

RULING

1. Before the court is the amended originating summons dated February 1, 2021 by which the applicant seeks the following orders;
 - i. Spent
 - ii. Spent
 - iii. That the Applicants S.K.K and N.N.M be authorized to adopt the female child currently identified and known as Baby A.S (Child).
 - iv. That W.K.L and B.C both of Post Office Box No. xxx, Bomet, be appointed guardians to take care of the interests of the minor should any misfortune befall the Applicants.
 - v. That the child be known as S.C.K
 - vi. That the child be declared a Kenyan citizen.
 - vii. That the Registrar of Births and Deaths does issue a birth certificate to the Child.
 - viii. That the Registrar General does make appropriate entries in the Adopted Children's Register.



- ix. That the court does issue such further orders and directions as are in the interest of justice.
2. The application was supported by an affidavit sworn by N.M.N the Applicant herein and on behalf of her co-applicant and husband. The applicants contemporaneously filed a statement in support of the application for an adoption order.
 3. The Applicants are desirous of adopting A.S (Child), who is their niece.
 4. The Applicant is a Finance and Administrative Officer at the Ministry of [Particulars Withheld] whereas her husband is an ICT Consultant at [Particulars Withheld] Canada and they are therefore possessed of sufficient economic means to take care of the child.
 5. The Applicants applied for adoption on October 9, 2020 through the Kenya Children's Homes, an Adoption Society incorporated under the Children Act, pursuant to the said application, child placement was considered and approved by the Adoption Society.
 6. The Applicants stated that the child has been under their care since birth and since 2017, over this time, they assumed parental responsibility over the child, as her mother namely, R.N.M, a sister to the Applicant, pursued her studies in Mt. Kenya University and later started a boutique business in Narok Town.
 7. The Applicants stated that ever since they took physical custody of the child and assumed parental responsibility, they have faithfully cared and provided for her.
 8. The Applicants stated that to the best of their knowledge the biological mother of the child namely, R.N.M has ceded parental control of the minor to them and conceded to their request to adopt the minor as evidenced by her sworn affidavit.
 9. The Applicants stated that they had been advised by their advocates on record, that they met the requisite qualifications for grant of an adoption order and attached an adoption bundle, which bundle is clearly marked and itemized.
 10. The child was born on September 23, 2016. Her biological mother willfully offered the child for adoption to her sister and her brother -in -law, the applicants herein, to raise the child and live harmoniously as a family. The biological mother was taken through a memorandum titled "Adoption For Children Explanatory Memorandum For Biological Parents/Guardians Offering Children For Adoption" and she signed a certificate of acknowledgment on October 16, 2020 as a confirmation of her understanding of the said memorandum. The biological mother swore and signed an affidavit before a Commissioner for Oaths on October 22, 2020 in Nairobi giving the final consent towards this adoption.
 11. Consequently, the child was declared free for adoption by the Kenya Children's Homes Adoption Society Case Committee on its sitting of October 28, 2020 and a freeing certificate serial number issued pursuant to section 156 (1) of the Children's Act, 2001.
 12. The Department of Children Services filed a report dated June 6, 2021 and recommended the adoption.
 13. I have considered the amended originating summons filed herein dated February 1, 2021, the affidavit in support of the application for adoption orders, the adoption bundle filed in support of the application for adoption. I find that the sole issue for determination by this court is whether to allow the adoption of the minor herein. The answer is in the affirmative. I find that the applicants are suitable



persons to take charge of the child and safeguard her interests and that the adoption herein will serve the best interest of the child.

14. In deciding upon any matter involving a child, courts are obliged to give priority to the best interests of the said child, section 8 (1) of the *Children Act*, No. 29 of 2022 provides as follows;

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

(a) the best interests of the child shall be the primary consideration;”

15. I wish to take cognizance of the fact that section 193 of the *Children Act*, No. 29 of 2022 provides for kinship adoptions, I hereby allow the originating summons dated February 1, 2021 in the following terms;

- i. That the applicants herein be and are hereby authorized to adopt the child.
- ii. That W.K.L. and B.C. be and are hereby appointed the Legal Guardians of the child to take care of the interests of the minor should any misfortune befall the Applicants.
- iii. That the Guardian Ad Litem be and is hereby discharged.
- iv. That the child shall be known as S.C.K
- v. That the child is hereby declared a Kenyan citizen.
- vi. That the Registrar of Births and Deaths be and is hereby directed to issue a certificate of birth to the child.
- vii. That the Registrar General be and is hereby directed to register this adoption in the Adopted Children’s Register. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 14TH DAY OF MARCH, 2024.

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J.K. SERGON

JUDGE

In the presence of:

C/A Rutto

Mwita for the Applicant

