



**In re BIN (Child) (Adoption Cause E208 of 2022)
[2024] KEHC 2042 (KLR) (Civ) (1 March 2024) (Judgment)**

Neutral citation: [2024] KEHC 2042 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
ADOPTION CAUSE E208 OF 2022
PM NYAUNDI, J
MARCH 1, 2024**

IN THE MATTER OF

CJW APPLICANT

JUDGMENT

1. Before this Court is Applicant’s Originating Summons, dated 26th September, 2022 in which the Applicant seeks the following orders inter alia that;
 - a. Spent
 - b. Spent
 - c. That the Applicant be authorised to adopt BIN
 - d. Upon adoption the Child be known as BIN
 - e. The Child be presumed to be a Kenyan Citizen by birth
2. The matter was also canvassed by way of viva voce evidence on the virtual platform on 18th January, 2024.
3. The Applicant is a single lady residing in Georgia United States. She is a certified [Particulars withheld] and a business lady. She has 3 biological children who consented to this adoption proceedings. She is the paternal grandmother of the minor since the minor’s father is her son. she wishes to adopt her hence Kinship Adoption.
4. The minor’s parents are no longer together and do not contribute to the child’s upkeep and welfare. She states that she took custody and responsibility over the child upon obtaining consent of the grandparents as the child was abandoned by her mother and they could not cater for the minor. The father has consented to the adoption.



5. The Applicant states that she is financially stable and thus able to provide fully for the child. The Applicant stated further that she has the means to provide for her needs and further stated that she will assume full parental responsibilities.
6. Further she is both physically and emotionally fit and healthy to parent, love and care for the child. She further stated that she has never been charged nor convicted of a criminal offence.
7. It's her prayer that CN be appointed as the legal guardian of the minor in the event of any eventuality.
8. She further averred that the KKPI Adoption Society investigated and found her fit to adopt the child. She stated in Court that she understands the implications of an adoption order.
9. Baby BIN, the Child herein is a female Child presumed to have been born on 19th April, 2010 as adduced in the Birth Certificate No. xxxx. The child was abandoned by her mother in the year 2017 at her grandfather's place who was not financially stable to provide for the minor.
10. Consequently, the minor was placed with the Applicant for mandatory bonding prior to adoption on 5th August, 2022 where she has been under the continuous care and control.
11. The Child was declared free for adoption by KKPI Adoption Society on 31st August, 2022 and a Certificate confirming she is free for Adoption Serial No. xxx was issued pursuant to Section 65 of the Children's Act, 2022.
12. The Assistant Director Children Officer from the Department of Children Services filed their Report on 3rd July, 2023 where She confirmed that the Child and the Applicant had bonded well and recommended that Applicant to adopt the minor for her best interest to legalize the relationship.
13. Subsequently, the Report also confirmed that the Applicant is socially and economically capable of raising the child thus proposed adoption has the support of the Applicant's family given that it is Local Adoption and has consent from all members of the Applicant.
14. It was also her averment that the Applicant has appointed her daughter as the legal guardian to take care of the minor in the event of eventuality.
15. The Report also confirmed that the Applicant is socially and financially capable of raising the Child. It also confirmed that the Applicant had a clean bill of health and that she had no criminal record as evidenced by copies of her certificate of good conduct referenced as PCC-xxxx and medical records attached.
16. The Report further stated that the Applicant had fulfilled all the pre-requisites for a Kinship Adoption under Section 193 the *Children's Act*, 2022 and subsequent *Children Regulations*, 2005. They recommended the adoption without reservation as it will be in the best interests of the Child.
17. The biological father to the minor was present in Court and he confirmed that he understands the implication of an adoption order and that he has willingly given his consent to the Application
18. The minor child subject of the proceedings was present in Court she confirmed that the Applicant is known to her. She confirmed further that she has given her consent to the adoption and that she understands the implications of the adoption order.
19. CN attended Court and confirmed that she has given her consent to act as Legalm Guardian to the minor.
20. CO, a paternal uncle to the minor was also present in Court and confirmed that he has given his consent to the adoption.



Determination

21. This Court is alive to the jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) Children Act 2022. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, Section 8 of Children Act 2022 and the UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.
22. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Kinship Adoption as required under Section 193 of the Children's Act, 2022. All the necessary Reports and consents required for this Adoption have been filed.
23. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits conducted by the representative of the Department of the Children's Services established that the Applicant has the financial and emotional capability to provide for the upkeep, care and education of the Child and that the Child has bonded well with the Applicant.
24. Article 14 (4) of the Constitution of Kenya 2010 provides that: -

“(4)A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by Birth.”
25. This court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the Applicants' application that;
 - a. The Applicant, CJW hereby allowed to adopt Baby BIN.
 - b. Henceforth, the child shall be known as BIN.
 - c. Her date of birth shall be 5Th March, 2013 and the place of birth be Nairobi County.
 - d. She is presumed to be a citizen of Kenya by birth.
 - e. CN is hereby appointed as Legal Guardian of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register.
 - g. The Director Immigration be authorised to issue the child with a Kenyan Passport.
 - h. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 1ST DAY OF MARCH, 2024.

P.NYAUNDI

JUDGE

In the presence of:

Court Assistant Sylvia

