



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re IW (Child) (Adoption Cause E065 of 2021)  
[2024] KEHC 2081 (KLR) (Family) (1 March 2024) (Judgment)**

Neutral citation: [2024] KEHC 2081 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E065 OF 2021  
PM NYAUNDI, J  
MARCH 1, 2024  
IN THE MATTER OF THE CHILDREN'S ACT, 2022  
AND  
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF IW (THE CHILD)  
IN THE MATTER OF  
JWK ..... APPLICANT**

**JUDGMENT**

1. Before this Court is Applicant's Amended Originating Summons dated 28th November 2023, the same is supported by written statement of the Applicant of even date and seeks the following orders, inter alia-
  - a. That AGH be appointed legal guardian of the minor
  - b. That the Applicant be authorised to adopt IW, the child herein
  - c. That upon adoption, the child be known as JW
  - d. That the Registrar General be directed to enter this adoption into the Adoption Register.
  - e. That the Child be presumed to be a Kenyan citizen by birth
  - f. That the Court be pleased to make any further orders it deems necessary
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 Kenyan Citizen born in the year 1962. She is a single lady and has no children of her own.



4. She Applicant lives in Nairobi. She is a business lady. She wishes to adopt the minor who was abandoned by her mother at Tanners Sewer Stream at Zimmerman. 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 responsibility.
5. 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.
6. She further submits 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.
7. Baby I, the Child herein is a female Child presumed to have been born on 18<sup>th</sup> June, 2014. The child was found at night abandoned by a good Samaritan at Tanners Sewer Stream at Zimmerman. On 19<sup>th</sup> June, 2014 the matter was reported to Kasarani Police Station Child Protection Unit Vide OB [particulars withheld]/2014.
8. The Senior Resident Magistrate Nairobi Children's Court committed the minor to Mogra Soul Winner Children's home on 5<sup>th</sup> July, 2017 Vide committal order P&C No. 317/17.
9. Soon after the minor was placed with the Applicant for mandatory bonding prior to adoption on 24<sup>th</sup> March, 2017 where she has been under the continuous care and control.
10. The Child was declared free for adoption by KKPI Adoption Society on 30<sup>th</sup> May, 2023 and a certificate confirming she is free for Adoption Serial No. 632 was issued pursuant to Section 65 of the [Children's Act, 2022](#).
11. EW, the guardian *ad-litem* filed her Report dated 2<sup>nd</sup> May, 2023 In her Report and *viva voce* evidence, she stated that she visits the Applicant's home and from her observations, the Applicant has bonded well with the Child. She also stated that the Applicant was socially and financially stable to provide for the child and that the Applicants' family members had accepted the Child as part of the family. She confirmed that the Applicant had no criminal record and that she is in good health. She noted a good bond between the Applicant and the Child and thus recommended the adoption.
12. The Department of Children Services filed their Report dated 24<sup>th</sup> April, 2023, the report confirmed that the Child and the Applicant had bonded well and recommended that Applicant to adopt the minor for her best interest so to legalize the relationship.
13. In addition, the Report 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 his averment that the Applicant has recommended her younger sister as the legal guardian to the child 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-170740/2015 and medical records attached.
16. The Report further stated that the Applicant had fulfilled all the pre-requisites for a Local 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 Minor was present in Court. She confirmed that she is 9 years old and is attending School, she is in Class 4. She confirmed that they stay in Kariobangi with the Applicant, whom she recognises as her mother.
18. The proposed legal guardian. AGH attended Court. She is a spiritual partner to the Applicant and stated that she understands the implications of acting as Legal Guardian.

### **Determination**

19. 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.
20. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Local 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.
21. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. The home visits conducted by the guardian ad litem and 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.
22. 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.”
23. 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, JWK is hereby allowed to adopt Baby IW.
  - b. Henceforth, the child shall be known as JWW.
  - c. Her date of birth shall be 18<sup>th</sup> June, 2014 and the place of birth be Nairobi County.
  - d. She is presumed to be a citizen of Kenya by birth.
  - e. AGH 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 1<sup>ST</sup> DAY OF MARCH, 2024.**

**P.NYAUNDI**

**JUDGE**



In the presence of:-

Court Assistant Sylvia

