



**In re Baby ST (The Child) (Adoption Cause E138 of 2023)
[2024] KEHC 4751 (KLR) (Family) (18 April 2024) (Judgment)**

Neutral citation: [2024] KEHC 4751 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E138 OF 2023
SN RIECHI, J
APRIL 18, 2024**

**IN THE MATTER OF
DMM AND VWMM APPLICANT**

JUDGMENT

1. The Applicants DMM and VWM are Kenyan Citizen as evidenced by copies of their national identification cards attached to the summons.
2. The evidence on record indicate that the applicants are in a monogamous marriage which was solemnized at Deliverance Church Eastleigh in Nairobi County on 3rd October, 2009 as evidenced by a copy of marriage certificate serial number 276471 attached to the summons.
3. The Applicants have not been blessed with biological children of their own and wish to adopt a male child known as Baby ST through the Originating Summons dated 22nd June 2023
4. From the pleadings, the court notes that both the applicants work in Qatar where the 1st applicant works as a Human Resource officer at TNI Hospitality Services whilst the 2nd applicant is an accountant based in Qatar. The applicants reside at [particulars withheld] Gardens, Athi River within the Republic of Kenya and they both profess the Christian faith.
5. From the pleadings the court finds that the minor was found abandoned at [particulars withheld] in Mwihoko by a good samaritan known as MMN on 10th May 2022 while she was on her way home from work. The good Samaritan reported the matter at Mwihoko Police Station vide OB No. XXXX/2022 as evidenced by annexure and marked "DMV-5" a copy of the statement by MMN dated 20th May 2022 and the initial letter from Mwihoko Police Station dated 10th May 2022 attached to the application.
6. The Child was then referred to the Sub-County Children's Officer in Ruiru who sought a vacancy at New Life Trust Home, Kilimani for care and protection and the same was granted.



7. The Child was admitted to the said home on 10th May 2022 as evidenced by a copy of the Child Rescue Form and a copy of the Admission Form both dated 10th May 2022 and attached to the summons. The Child was then placed under the care of New Life Trust Home vide Protection and Care Case Number XXX of 2022 on 8th July 2022 as evidenced by a copy of committal order attached to the summons.
8. That all efforts to trace the biological mother or family members of the child herein have borne no fruits and as such presumed to have been abandoned under the provisions of section 187 (2) of the Children's Act, 2022. In support the applicants produced a copy of final letter from Mwhoko Police Station dated 5th January 2023 and a letter from Kenya Children's Homes Adoption Society dated 31st January 2023.
9. From evidence on record the child was placed under care of the applicants on 14th March 2023 by New Life Home Trust and he has been under applicants' foster care pending adoption as evidenced by a copy of a Foster Care Agreement attached to the application.
10. Prior to the hearing of the adoption application, the child was declared free for adoption by Kenya Children Homes Adoption Society on 15th February 2023 vide certificate number XXXX and pursuant to section 184(a) of the *Children Act* 2022 as evidenced by a copy of the certificate attached to the application.
11. The guardian ad litem Joshua Kibet filed a report dated 23rd February 2024 which was favourable and recommended the adoption of the child by the Applicants.
12. MWM and CMK of Kenyan National Identity Cards Number XXXX and XXXX have consented to be the legal guardians of the child and filed a consent dated 22nd June 2023 attached to the summons.
13. Caroline Olilo a Senior Children Officer from the office of the Director of Children Services conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 4th March 2023 prepared by Winfred Ikinya, assistant Director Nairobi County Children Services.
14. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since their whereabouts is unknown. The child was in court during the hearing and appeared to have bonded well with the Applicants.
15. I have examined the evidence herein and best interest of the child as required in Article 53 (2) of *the Constitution* and Section 8 of the Children's Act 2022. Consequently, my considered view is that it is in the best interest of the child to be adopted by the Applicants. Reasons wherefore, I allow the prayers sought in the Originating Summons dated 18th August 2023 and Order as follows:
 - i. The Applicants DMM and VWM are hereby allowed to adopt Baby ST who shall henceforth be known as DM.
 - ii. His date of birth shall be 30.4.2022 and he is presumed to have been born in Kenya in accordance with Article 14(4) of *the Constitution*.
 - iii. MWM and Charles MKIN Muhoho are hereby appointed as the legal guardian of the child.
 - iv. The Registrar General is directed to enter this Order in the Adopted Children Registry.
 - v. The guardian ad litem is hereby discharged.

DATED AT NAIROBI THIS 18TH DAY OF APRIL, 2024.



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S. N. RIECHI

JUDGE

