



**In re GI (Child) (Adoption Cause E018 of 2023)
[2024] KEHC 4644 (KLR) (11 April 2024) (Judgment)**

Neutral citation: [2024] KEHC 4644 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E018 OF 2023
MW MUIGAI, J
APRIL 11, 2024
IN THE MATTER OF CHILDREN ACT 2022
AND
IN THE MATTER OF CHILD, GI**

IN THE MATTER OF

**PMN 1ST APPLICANT
MMP 2ND APPLICANT**

JUDGMENT

1. The Applicants herein, PMN – ID. Number xxxx and MMP - ID. Number xxxx (“the Applicants”) sought by their application to be allowed by this Court to adopt child GI (hereafter “the minor”).
2. *Vide Exparte* Chamber Summons Application dated 24/07/2023 the Applicants sought among other orders; that the Applicants herein PMN and MMP be authorized to adopt the child currently identified as GI a minor who is to be known as GMP; that the child’s date of birth be declared to be 3rd March, 2007 and his place of birth be declared to be Nairobi County; that the child be presumed to be a Kenyan citizen by birth and as a consequence, be entitled to the rights and benefits of a Kenyan citizen, including being issued with a Kenyan Passport whenever desired, that the consents of the biological parents/Guardian be dispensed with, the Guardian *ad litem* be discharged; and that BMD and TNM be appointed as the Legal Guardians of the child in event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations and that the Registrar General be directed to make the appropriate entries in the Adopted Children’s Register.
3. The Applicants sought further orders that ANM of ID No.xxxx be appointed as Guardian *Ad litem* in this cause. ANM was appointed by this Court as the Guardian *Ad Litem* on 26/09/2023 for the purpose of these Adoption proceedings.



4. The child (GI) the subject of the present adoption proceedings was presumably to have been born on 3/03/2007. On 3/03/2009 the child who was estimated to be three years old was found abandoned along Park Road within Starehe Sub-County by a Good Samaritan. The Good Samaritan reported the matter to Pangani Police Station vide OB No 96/3/3/2009. From 3/3/2009 to 6/3/2009 the child was briefly admitted to Nairobi Children's Home for care and protection. On 6/03/2009 Officer J. Kimaru from Pangani Police Station issued the initial police letter addressed to the Juvenile Court narrating the incident of abandonment. On 7/03/2009, the child was admitted to Imani Children's Home for Care and Protection. On 24/05/2010, the child was committed to Imani Children's Home for Care and Protection at the Nairobi Children's Court by the Senior Resident Magistrate in Nairobi Care Case No. 86 of 2009.
5. On 24/07/2017 the Embakasi Sub-County Children's Officer wrote to the Court requesting for extension of stay for the minor at Imani Children's Home which order the Court granted on 13/09/2017. Imani Children's Home reported that during the child stay at the institution, no parent or relative turned up to claim the child or received any information from the Department of Children Services and Police Department regarding the said child.
6. The minor was freed for adoption by the Kenya to Kenyans Peace Initiative (KKPI) Adoption Society Case Committee held on 24/09/2019 vide Certificate Declaring Child Free for Adoption Serial No.839 dated 24th September, 2019.
7. The following documents were availed from Kenya Children's Homes Adoption Society for child GI attached at pg 44 – 49 of the Applicants bundle.
 1. Initial Police Letter from Pangani Police Station dated 6/03/2009
 2. Child's admission Form.
 3. Letter from Children's Department, Nairobi Children's Home.
 4. Committal order
 5. Letter from Embakasi Sub-County Children's Office
 6. Final police letter from Pangani Police Station dated 17/02/2017.
 7. Home study report from KKPI Adoption Society
 8. Certificate declaring child free for adoption.
8. The Applicants herein PMN and MMP of identification numbers xxxx and xxxx respectively are residents of [Particulars Withheld] within Makueni County. They are husband and wife - married on 7/05/1988 as per attached copy of marriage certificate Serial Number xxxx. The Applicants annexed the following documents in support of their application; Applicants copies of Identification cards Certificate of Marriage Applicants payslips and savings booklet Letter of confirmation of plots ownership Medical Reports for both Applicants Police clearance Certificates for both Applicants Letters of Referees Guardian *ad litem* Affidavit of fitness Legal Guardians letter of Consent and copies of their Identity Cards.
9. Pursuant to the Children Act, Kenya Children's Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by the Applicants.



10. The Guardian *Ad Litem*, Rev. AM of ID No.xxxx also filed the statutory Report in which he noted that the proposed adoption of the child by the Applicants would be in the best interests of the child.
11. The Kenya to Kenyans Peace Initiative (KKPI) Adoption Society filed their report in Court on 5/03/2024. Ms Jackline Wambui from the Society appeared in Court on 5/03/2024 in respect of these Adoption Proceedings. She told the Court that the Applicants were placed with the child GI in 2019. The Society carried out follow-ups sessions and are fully satisfied with the Applicants fostering the child. The Society recommended the adoption.
12. According to the Report the Applicants made a joint adoption application to Kenya to Kenyans Peace Initiative (KKPI) Adoption Society in November, 2017. The Applicants are a couple having been married in the year 1988 vide Certificate of Marriage Serial Number xxxx. The Applicants do not have any child of their own. Their motivation towards adoption is due to their love for children and also make their family larger.
13. The Applicants lives in their own 3 bedroomed house with a sitting room, study room and bathroom. The house is situate in a secure area. The house is well serviced with solar power and they harvest water from the rains. The Applicants are confirmed to be of good general heath (medical reports are attached), they do not have Criminal Record (Police clearance reports attached). The Applicants extended family are supportive of the Adoption whereby the Applicants have appointed the BMD and TNM (Mr. BMD is the 1st Applicant's nephew) as the proposed Legal Guardians of the child.
14. They have accepted to be the Legal Guardians and confirmed that they understand their roles as Legal Guardians and can comfortably take care of the minor in event of their demise or incapacitation. The Applicants are stable financially, they have a joint income of about kshs.40,000/- per month from employment and farming. The Applicants assets include the land where they currently live on and several plots. Both the Applicants works as Religious Ministers at the AIC Church. The Applicants fellowship at [Particulars Withheld] where MM is a Pastor. The Applicants have a medical cover through NHIF and wish to include the minor once the adoption process is finalized. On observation the Applicants seems to have adequate means, both financially and socially to cater for the needs of a child. The Adoption Agency recommended the Adoption.
15. The Director of Children's Services filed their report dated 17/11/2023 and filed in Court on 22/11/2023 in respect of the proposed adoption of the child by the Applicants. EK the Machakos Sub County Children Officer appeared in Court on 5/03/2024. She told the Court that she visited the child GI at [Particulars Withheld] Boys where he is a Form 2 student. She interviewed the minor and found that he had integrated well. The Applicants take care of the boy and pay his school fees. The Applicants live in their own home built in their own land.
16. Similarly the Report indicated that during the home visits it was observed that the Applicants lives in a 4 bedroomed house built in a 1 acre piece of land. They also owns 10 pieces of land around where they live where they practice farming and grow trees. They have also built on 2 plots that they own in the market where they have constructed rentals. The Applicants are intending to give the minor good education, parent him according to God's work and make the minor their heir.
17. During the interview with the child GI on 10/10/2023 the minor confirmed that he is willing to be adopted by the Applicants since they are the family he has known since he left the institution of care. That the Applicants have taken good care of him and have ensured that all his needs are met. He further said that he is happy to be part of this family and promised to ensure that he works hard towards it betterment. The extended family are supportive of the arrangement. They recommended the adoption.



18. The Guardian *Ad Litem*, Rev. AM filed his Report dated 11/12/2023 in Court on 13/12/2023 in support of these Adoption proceedings. He appeared in Court on 5/03/2024. He told the Court that the minor is in the right hands and that the Applicants will take care of the minor and the adoption is in the best interest of the minor.
19. Similarly the Report indicated that he has known the Applicants for a period of over thirty (30) years. The child George Imani the minor in these proceedings was placed with the applicants on 31st October, 2019 while at the age of 12 years and the Applicants have been taking good care of him since then. The minor has bonded well with the other brother T. The Applicants have offered parental love, care and guidance to the minor as well as providing his needs. The minor has grown to know Mr. & Mrs PM as his parents. The Applicants have support from their family which has fully welcomed the minor as part of the family. The Guardian *Ad litem* recommended the adoption.
20. The Legal Guardians BMD and TNM - of Identification Card Numbers xxxx and xxxx respectively are a married couple (nephew to the 1st Applicant) they filed their Affidavit of Fitness and Consent sworn on 24/07/2023 and filed in Court on 4/02/2018 respectively stating that they will take over the matter in case of any eventuality.
21. GP the child subject of these proceedings appeared in Court on 5/3/2024. He told the Court he is now aged 17 years. He goes to school at [Particulars Withheld] Secondary School. He further stated that he has been with the Applicants for 5 years. He has agreed to be adopted.
22. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicants has fulfilled all the legal requirements relative to the adoption of the child.
23. The home visits by the Guardian *Ad Litem*, the Adoption Society Representative and the Director of the Children's Services established that the Applicants are financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. This Court observed the Applicants with the child in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well. The child considers the Applicants to be his parents.

Disposition

1. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants. Hence, this Court allows the Applicant's application.
2. The Applicants, PMN and MMP are hereby allowed to adopt child GI.
3. Henceforth, the child shall be known as GMP.
4. The child's date of birth is 3RD March, 2007 and the place of birth shall be Nairobi County.
5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.
6. BMD and TNM shall be the Legal Guardians of the child should such eventuality arise.
7. This Court directs the Registrar General to duly enter this order in the Adoption Register.



8. That the Directorate of Children Services to carry out supervision on the said adoption and file a report on the ongoing safety/security of the child within one year of the Adoption in the best interests of the child under Section 8 of *Children's Act* 2022.
9. The Guardian *ad litem* is hereby discharged.

It is so ordered.

JUDGMENT DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 11TH DAY OF APRIL, 2024 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

IN THE PRESENCE/ABSENCE OF:

Ms L. Mbuvi - FOR THE Applicants

GEOFFREY/PATRICK - COURT ASSISTANT(S)

