



REPUBLIC OF KENYA



**In re Baby CMK (Minor) (Adoption Cause E075 of 2023)  
[2024] KEHC 15454 (KLR) (Family) (9 April 2024) (Judgment)**

Neutral citation: [2024] KEHC 15454 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**ADOPTION CAUSE E075 OF 2023**

**EKO OGOLA, J**

**APRIL 9, 2024**

**N THE MATTER OF THE CHILDREN'S ACT, 2022**

**AND**

**IN THE MATTER OF THE ADOPTION OF BABY CMK**

**(MINOR)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION BY PMM AND ANS**

**JUDGMENT**

1. The Originating Summons before this court is dated 27<sup>th</sup> April 2023 by which the applicants pray for the following orders: -
  - a. That the applicants be authorized to adopt Baby CMK an infant who is to be known as TDM and the Registrar general be directed to enter this adoption into the Register of Adoption;
  - b. That EKM and AMN be appointed as the legal guardians of the minor who shall be presumed to have been born in Kenya.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicants and an affidavit in support. The matter was canvassed by way of viva voce evidence in court.
3. PW1 was the 1<sup>st</sup> Applicant and PW2 was the 2<sup>nd</sup> Applicant. The applicants testified that they are married and have no other children. They both engage in business for gain in Kitui and will be able to cater for the needs of the child who came into their care on 20<sup>th</sup> October 2022.
4. PW3 was PMS the guardian ad litem, PW4 CNM an officer from Buckner Adoption Society, and PW5 was MA an officer from the Directorate of Children Services. They testified that they visited the applicants and they found that the child has bonded well with the family. They all filed reports recommending the adoption.



## Determination

5. I have carefully considered this adoption application, the various affidavits and reports on record as well as the relevant law. I have also considered the evidence adduced in open court.
6. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the Children's Act 2022 which provides as follows: -

“ 184 (1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”
7. The child was born on 9<sup>th</sup> May 2022 to Naomi Wanjiru Kirika. The biological mother approached Change Trust Adoption Society with the intention of offering the child up for adoption. According to the biological mother, she did not know the whereabouts of the child's biological father and her reason for offering the child up for adoption was because she did not have the financial capacity to raise the child. On 18<sup>th</sup> May 2022, the child's biological mother and grandmother both signed a consent to this effect.
8. The child was then placed at New Life Home Trust pending adoption. Ruiru Children Court vide P&C Np. E002 of 2022 formally committed the child to the said home. On 20<sup>th</sup> October 2022, the child was placed under the foster care of the applicants. The child was declared free for adoption on 15<sup>th</sup> July 2022 vide Certificate of freeing No. 00489.
9. The the legal prerequisites for an adoption order have accordingly been met.
10. The duty of this Court is to analyze the material placed before it and decide as to whether the applicants are suitable adoptive parents. The Applicants are a married couple and Kenyan citizens. The applicants are financially stable. Hence, they are in a good position to provide for the needs of the child. The applicants were also examined and found to be physically and mentally fit. Furthermore, there are copies of Certificates of Good Conduct issued by the Kenya Police Service which prove that the applicants have no criminal antecedents. From the foregoing, I am satisfied that the applicants are suitable adoptive parents.
11. According to the birth notification, the child was born in Kenya and therefore a Kenyan Citizen.
12. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1)(a) of the *Children Act* 2022 provides: -

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”
13. The child has lived with the applicants in their home for more than a year. There is no doubt that the child has bonded with the applicants and considers them as her parents. The various reports filed in court all recommend the adoption.
14. Therefore, I am satisfied that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -
  - a. The Applicants PMM and ANS are authorized to adopt the child known as Baby CMK.
  - b. Upon adoption, the child will be known as TDM.



- c. The child is declared a Kenyan Citizen by birth.
- d. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- e. EKM and AMN are appointed as the legal guardians of the child.
- f. The guardian ad litem is hereby discharged.

Orders accordingly

**DATED AND DELIVERED AT NAIROBI THIS 9<sup>TH</sup> DAY OF APRIL 2024**

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**E.K. OGOLA**

**JUDGE**

In the presence of:

Ms. Ambaka for the Applicants

Ms Libertine Oriel court Assistant

