



**In re MP alias P (Baby) (Adoption Cause E193 of 2023)
[2024] KEHC 3333 (KLR) (Family) (5 April 2024) (Judgment)**

Neutral citation: [2024] KEHC 3333 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E193 OF 2023
PM NYAUNDI, J
APRIL 5, 2024
IN THE MATTER OF THE CHILDREN ACT, 2022
AND
IN THE MATTER OF BABY MP ALIAS BABY P**

IN THE MATTER OF

LAO APPLICANT

JUDGMENT

1. LAO, (The Applicant herein) seeks by Originating Summons dated 3rd October, 2023 the following orders that; -
 - a. She be allowed to adopt Baby MP alias P (hereafter “the child”)
 - b. The child be called PMAP.
 - c. The Registrar-General be and is hereby ordered to make the appropriate entries in the Adopted Children’s Register.
 - d. YA be and hereby appointed Legal Guardian of the child.
 - e. The child shall be presumed to have been born in Kenya.
2. The Applicant herein is a single woman and a Kenyan Citizen. According to the submitted report is that she had previously married in the year 1988 but the marriage broke down. It’s the Applicant’s averment that out of that marriage she was blessed with three children who are all deceased.
3. The Applicant attended Court virtually she is a Care-giver at Newlife-Home Trust. The Applicant’s desire to care for the children led her to seek and wish to adopt the minor whom she has lived with for since 18th January, 2018. She further averred that she has the means to provide for the child’s needs. The



- minor attends school in Kibera. The Applicant confirmed she understands the nature of an adoption proceedings and she asserted that she will assume full parental responsibility towards the minor herein.
4. Baby MP alias P (The minor herein) attended Court the child stated that she is 9 years old and in grade four and confirmed that she recognizes the applicant as her mother.
 5. According to the report filed in Court, it is said that the minor was rescued by the flying squad department from being sold to a willing buyer in Kayole area, Nairobi County on 8th July, 2014 and four people were arrested who are believed to be part of child trafficking cartels.
 6. A report on the incident was made to DCI on 9th August 2014 and was recorded Vide OB No 9/8/7/2014. On the same day, the Children's Officer, Westlands was informed of the incident and managed to secure a temporary placement for the child at New Life Home Trust.
 7. The Magistrate Children's Court sitting at Nairobi, in accordance with Section 119 of the [Children Act](#), committed the child to the home on 2nd November, 2022 Vide P&C No 567/2017. The child was placed in the custody of the Applicant on 18th January, 2018 for a period of three months for mandatory bonding prior to adoption. The minor has since then been in the continuous custody and care of the Applicant.
 8. According to correspondence from relevant authorities by Court in Criminal Case Number 993 of 2014 issued an Order that the child be released to New Life Home Trust for adoption since no one has come forward to claim the child. A report to that effect has been filed in Court. Thus, this Court dispenses with the consent of the child's biological parents to the proposed adoption of the child by the Applicant. The adoption society, Change Trust Adoption Society, issued a certificate declaring the child free for adoption pursuant to Section 156(1) of the [Children Act](#). The said freeing Certificate is Serial No 00580 and the same is dated 30th March, 2023.
 9. On 2nd November 2023, this Court issued an order appointing Pamela Shikhule as the child's guardian *ad litem*, and further directing the guardian *ad litem*, the Director of Children's Services to file their respective reports in Court within 45 days.
 10. The proposed legal guardian, YA attended Court and stated that the Applicant is her sister and she is a mother of seven children and confirmed she has given her consent to be appointed as Legal Guardian.
 11. Pursuant to Section 156(1) of the [Children Act](#), before this matter came up for hearing and via viva voce evidence in online platform in Court, Change Trust Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by Applicant. Where the society stated that the minor remained unclaimed for more than six months and that no information from Criminal Investigation Department available regarding the child's biological family hence the adoption would be in the child's best interest. Another report in respect of the proposed adoption of the child by the Applicant was prepared by the Assistant Director Officer of Children's Services, and this report was similarly in favour of the proposed adoption as the Applicant demonstrated exemplary parental care and her parental responsibilities were exemplary exhibited as required by Section 11 (1) of the [Children Act](#) 2022.
 12. The guardian *ad litem*, Pamela Shikhule, also filed the statutory report made under Section 188 of the [Children Act](#), 2022 in which she noted that the child has fully bonded well with the Applicant and the extended family members and makes frequent visits to their rural home. The Applicant has shown parental commitment and willingness to give her a permanent, safe and loving home therefore proposed adoption of the child by the Applicant, would be in the best interests of the child.



13. Additional, the Applicant have no previous criminal record and no pending criminal prosecution against as per PCC Serial No 199529/2014. It's also the Applicant's statement that she is of good health.
14. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child. This Court has evaluated the facts of this adoption.
15. This is a Local Adoption. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth.

This Court has satisfied itself that the Applicant is qualified and able to take care of the child.

16. The home visits by the guardian *ad litem*, the adoption society and the Director of the Children's Services established that the Applicant has the financial and emotional capability to provide for the upkeep and education of the child. This Court observed the Applicant with the child in Court and it was evident that in the period that the Applicant has had the custody of the child, the child has bonded well with her. The child considers the Applicant to be her mum.

Determination

12. After carefully assessing the records herein, I am satisfied that the Applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the [Children Act](#), 2022 provides. The court may make an adoption order on application by-
 - (1)
 - (a) Sole applicant; or
 - (b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
 - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
13. 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.
14. 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.



15. 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.”

13. This court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with orders that;

- a. The Applicant, LAO is hereby allowed to adopt Baby MP alias P.
- b. Henceforth, the child shall be known as PMAP.
- c. Her date of birth shall be 7th July, 2014 and place of birth Nairobi
- d. She is presumed to be a citizen of Kenya by birth.
- e. YA is hereby appointed as Legal Guardian of the child.
- f. The Registrar General to enter this order in the Adoption Children Register.
- g. The guardian *ad litem* is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 5TH DAY OF APRIL, 2024.

P. NYAUNDI

JUDGE

In the presence of:

Sylvia Court Assistant

