



REPUBLIC OF KENYA



**In re IPI (Infant) (Adoption Cause E004 of 2024)
[2024] KEHC 5798 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5798 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
ADOPTION CAUSE E004 OF 2024
RE ABURILI, J
MAY 16, 2024**

**IN THE MATTER OF CHILDREN'S ACT, CAP 586 LAWS OF KENYA
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY PA AND PSO - APPLICANTS
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION OF LPL - INFANT**

RULING

1. I have deliberately highlighted in red the provisions which are cited as originating these proceedings by way of Originating Summons dated 6th May, 2024.
2. Matters adoption are matters under the Children's Act and which Act gives effect to Article 53 of the Constitution of Kenya.
3. It follows that any person seeking orders of Adoption of a child must invoke the correct legislation and not second-guess.
4. In this case, despite the fact that Parliament enacted the law to give effect to Article 53 of the Constitution in 2022, repealing the former Children's Act No. 8 of 2001, the Applicant's counsel did not find it necessary to find out under what law he was advising his clients to file for adoption of the child subject of these proceedings. Section 249(1) of The Children Act, No. 29 of 2022 which commenced on 26th July 2022 repealed The Children's Act, 2001. It is this repealed Act which was Cap 586 of Laws of Kenya.
5. I have no doubt in my mind that there is a clear procedure spelt out in the Children's Act, 2022.
6. It follows that the proceedings herein are misconceived. This court cannot consider proceedings commenced under Cap 586 Laws of Kenya which is repealed statutory provisions.
7. The Originating Summons dated 6th May 2024 is hereby struck out and this file is closed.



8. The applicant's counsel to be notified.

9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 16TH DAY OF MAY, 2024

R. E. ABURILI

JUDGE

