



REPUBLIC OF KENYA



**In re CH alias A (Minor) (Adoption Cause E166 of 2023)
[2024] KEHC 15410 (KLR) (Family) (9 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 15410 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E166 OF 2023
EKO OGOLA, J
MAY 9, 2024
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY CH ALIAS BABY A (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY JMN AND MMM**

JUDGMENT

1. The Originating Summons before this court is dated 25th July 2023 by which the applicants pray for the following orders: -
 - a. That the applicants JMN and MMM be allowed to adopt the child currently identified as Baby CH alias Baby A.
 - b. That henceforth, the child be renamed as RAM.
 - c. That the child's date and place of birth be declared to be 24th May 2022 in Mbagathi District Hospital.
 - d. That the child be presumed to be a Kenyan citizen by birth; and consequently, be entitled to all the rights and benefits in respect thereof.
 - e. That the relevant department under Civil Registration Services be directed to issue a post-adoption certificate in respect of the child.
 - f. That this honorable court be pleased to direct the Directorate of Immigration to issue the child with the pertinent passport.



- g. That PMN and MSM be appointed as the legal guardians of the child, in the event that the applicants herein are incapacitated or in any way unable to discharge their parental obligation.
 - h. That the guardian ad litem be discharged.
 - i. That the Registrar be directed to make the appropriate entries in the Adopted Children's Register.
 - j. That this court do issue such further orders as are in the interest of justice.
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 SMM the guardian ad litem. PW4 was NO, an officer from the Directorate of Children's Services. PW5 was AM an officer from Buckner Kenya Adoption Society. They all testified that they visited the applicants. The child has bonded well with them. They all filed reports recommending the adoption.
 4. PW2 was the 1st applicant, JMN. PW3 was the 2nd applicant, MMM. They are married. They do not have any biological children. PW2 testified that he is a businessman. PW3 testified that she works with PW2 in his business. They testified that they were financially capable of taking care of the child.

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 is presumed to have been born on 24th May 2022. He was found abandoned in Laini Saba in Kibira within Nairobi County. He was rescued and taken to Mbagathi District Hospital for a medical examination. The matter was recorded by the KNH Police Post under OB No. 06/25/05/2022. Consequently, the child was placed at Hope House Children's Home awaiting police investigation under P&C E.348 of 2022. The police in their letter dated 6th December 2022 stated that after investigations they were unable to find the child's biological mother or any relative. On 11th December 2022, the child was placed with the applicants.
8. The child was declared free for adoption on 13th December 2022 under Certificate No. 0630. Therefore, the legal prerequisites for an adoption order have accordingly been met.
9. 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.



10. Article 14 of the Constitution deals with the issue of Citizenship. Article 14(4) provides as follows:-

“(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.”

11. The child was abandoned in Kibra, Nairobi. This is within the Republic of Kenya. The child is 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. 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 JMN and MMM are authorized to adopt the child known as Baby Baby CH alias Baby A.
- b. Upon adoption, the child will be known as RAM.
- c. The child is declared a Kenyan citizen by birth, her birth date shall be 24th May 2022, and the place of birth shall be Nairobi.
- d. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- e. That the director of immigration is hereby authorized to issue the child with a Kenyan passport.
- f. PMN and MSM are appointed as the legal guardians of the child.
- g. The guardian ad litem is hereby discharged.

Orders accordingly

DATED AND DELIVERED AT NAIROBI THIS 9TH DAY OF MAY 2024

E.K. OGOLA

JUDGE

In the presence of:

Ms. Kimenyi for the Applicants

Ms Gisiele M court Assistant

