



**In re Baby LN (Adoption Cause E003 of 2023)
[2024] KEHC 5427 (KLR) (6 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 5427 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
ADOPTION CAUSE E003 OF 2023
SN MUTUKU, J
MAY 6, 2024**

IN THE MATTER OF

**SKM 1ST APPLICANT
IWM 2ND APPLICANT**

JUDGMENT

1. By an Originating Summons filed in court on 14th March 2023, the applicants have approached the court seeking an adoption order in respect of the minor known as Baby LN whose name shall change to NWK. They also seek an order directing the Director of Children’s Department, Ministry of Labour, Social Security and Services to investigate the fitness of the applicants to adopt the minor and file a report to this court; that the minor be presumed to be a Kenyan Citizen by birth; that the minor’s date of birth be 1st October 2021 and the place of birth be Kajiado County.
2. The applicants seek further orders that the Registrar General be directed to enter this adoption in the Adopted Children’s Register; that the Principal Registrar of Births and Deaths be authorized to issue the minor with a Birth Certificate; that the Director of Immigration be authorized to issue the minor with a Kenyan Passport; that JMN and SWM be appointed Legal Guardians of the minor in the event of the death or incapacity of the applicants before the child attains the age of majority or becomes independent and any other order this court may deem necessary to grant.

Grounds in Support

3. The Summons is supported by grounds found on the Statement by the applications filed on the same date. In that Statement, the applicants have explained their circumstances. They are Kenyan citizens, Christian by faith. They are a married couple as shown in a Certificate of Marriage dated 2nd November 2007. They have two biological children together, PMK born on 2nd May 2009 and SWK born on 3rd October 2012.



4. They have stated that both are physically and emotionally fit and healthy to parent the child; that both are administrators by profession, working with [particulars withheld] Airways, respectively; that they live in a comfortable home environment which is suitable for nurturing the minor and that they are financially stable and able to provide for the child. They have attached certificates of good conduct from the police showing that they have never been charged with any criminal offence.
5. The minor was found abandoned at Kitengela Sub-County Hospital by a good Samaritan on 6th October 2021. The incident was reported at Kitengela Police Station through OB No. XXXX/2021. The issue was brought to the attention of Isinya Sub-County Children Officer. The Officer secured a temporary placement for the child at [particulars withheld] Rescue Centre. The child was presented before the Senior Resident Magistrate's Court in Kajiado Law Courts in C&P Case No. XX of 2021 where she was formally committed to [particulars withheld] Rescue Centre Children's Home in an order issued on 14th October 2021.
6. The police at Kitengela Police Stations confirmed through a letter dated 7th April 2022 that no one had come claiming the child and advised [particulars withheld] Children's Home to take any action in the best interest of the child. The child was freed for adoption by Buckner Kenya Adoption Services through a Certificate dated 27th April 2022. The child was placed under the care and protection of the applications from the 4th day of May 2022.
7. On 1st December 2023, this court appointed Jane Njoki Maina as Guardian Ad Litem and directed her and the Department of Children Services to investigate the fitness of the applicants to adopt the minor and file a report to court. She has filed her report dated 4th March 2024. I have read the report. It captures all aspects of the applicants' life and confirms that the child has bonded well with the applicants and their other children. The report is positive and recommends that the applicants be allowed to adopt the child.
8. The report from the Children's Department is equally favourable. It is dated 26th January 2024 and recommends that the applicants be allowed to adopt the child.
9. This matter was heard on 30th April 2024. The 1st Applicant testified. His testimony is confirmation of the contents of the documents filed in court in support of this application. His testimony was confirmed by the 2nd Applicant.

Determination

10. I have considered the application seeking adoption order. I have read all the supporting documents and I have confirmed the averments of the applicants are correct as shown in the supporting documents. The applicants and their two children have bonded well with the minor. They have the means to take care of the minor and to ensure that her best interests are catered for. I am also satisfied that the proposed Legal Guardians have consented to be so appointed.
11. The reports from the Buckner Adoption Society, the *Guardian Ad Litem* and the Children's Department are all positive and show the fitness of the applicants to adopt the minor. I am satisfied that that the command of the law as contained in Article 53 (2) of the [Constitution](#) and section 8 of the Children's Act has been obeyed in the procedure leading to the orders sought here. The best interest of the minor has been considered in all the procedures leading to the filing of this matter to court. I am satisfied, too, that it would be in the best interest of the minor to grant the applicants the adoption order they are seeking. This will enable the minor to have a loving home where she will be brought up in the company of her siblings and loving parents.
12. For the above reasons, I hereby allow this Originating Summons in the following manner:



- i. That the Applicants, SKM and IWM, are hereby authorized to adopt Baby LN.
- ii. That Baby LN shall henceforth be known as NWK.
- iii. That NWK is presumed to be a Kenya Citizen by birth, born in Kajiado County and her date of birth shall be 1st October 2021.
- iv. That the Registrar General is hereby directed to enter this adoption in the Adopted Children's Register.
- v. That the Principal Registrar of Births and Deaths is hereby directed to issue NWK with a Birth Certificate.
- vi. That the Director of Immigration is hereby authorized to issue NWK with a Kenyan Passport.
- vii. That JMN and SWM are hereby appointed Legal Guardians of NWK.
- viii. That JNN is hereby discharged from being *Guardian Ad Litem*.

13. Orders shall issue accordingly.

DATED, SIGNED, AND DELIVERED ON 6TH MAY 2024.

S. N. MUTUKU

JUDGE

In the presence:

SKM1st Applicant

IWM2nd Applicant

