



REPUBLIC OF KENYA



**In re JB (Minor) (Adoption Cause E207 of 2023)  
[2024] KEHC 15411 (KLR) (Family) (20 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 15411 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E207 OF 2023  
EKO OGOLA, J  
JUNE 20, 2024  
IN THE MATTER OF THE CHILDREN'S ACT, 2022  
AND  
IN THE MATTER OF THE ADOPTION OF BABY JB (MINOR)  
AND  
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY CNK  
JUDGMENT**

1. The Originating Summons before this court is dated 25<sup>th</sup> October 2023 by which the applicant prays for the following orders: -
  - a. Spent;
  - b. Spent;
  - c. That the applicant be authorized to adopt JB alias Unknown A Baby Girl alias Unknown Baby alias Unknown alias Abandoned infant to be known as IWK;
  - d. That the child be presumed as Kenyan Citizen by birth;
  - e. That the child's date of birth be 29<sup>th</sup> January 2022 and the place of birth be Mau Summit Kuresoi;
  - f. That the Registrar General be directed to enter the adoption in the Adopted Children's Register;
  - g. That the Director of Immigration be authorized to issue the child with a Kenyan passport;



- h. That the applicant's father RKC and his wife MWK be appointed as the legal guardians of the child in the event of the death or incapacity of the applicant before the child is of the age or independent;
  - i. That the court be pleased to make further orders it deems necessary.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicant and an affidavit in support. The matter was canvassed by way of viva voce evidence in court.
3. PW1 was the applicant. She testifies that she is unmarried and without any other children. The applicant added that she lives and works in Nairobi. Therefore, she is financially capable of taking care of the child.
4. PW2 was CNN the guardian ad litem. PW3 was LMA, an officer from the Change Trust Adoption Society. PW4 was CO, an officer from the Directorate of Children's Services. They all testified that they had visited the applicant and the child and according to the report, they have bonded well with each other. They all recommend 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 found abandoned near Rubis Petrol Station in Mau Summit Sub Location on 29<sup>th</sup> January 2022 immediately after birth. The incident was reported to Mau Summit Police Station vide OB xx/29/01/2022. The child was consequently taken to Molo Sub County Hospital for medical care before being admitted to Africa Gospel Church baby centre on 7<sup>th</sup> February 2022. On 12<sup>th</sup> May 2022 vide a committal order No. P&C Case No. 016 of 2022, the child was formally committed to the said baby centre. On record is a letter dated 24th November 2022 from Mau Summit Police Station stating that no person has claimed the child. The child was declared free for adoption on 2<sup>nd</sup> March 2023 vide certificate No. xxxxx and on 18<sup>th</sup> May 2023, the child was placed with the applicant under foster care.
8. From the foregoing, 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 applicant is a suitable adoptive parent. The Applicant is a Kenyan citizen and she is financially stable. Hence, she is in a good position to provide for the needs of the child. The applicant was also examined and found to be physically and mentally fit. Furthermore, there is a copy of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicant has no criminal antecedents. I am satisfied that the applicant is a suitable adoptive parent.



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 Mau Summit 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 applicant in her home for around one year. There is no doubt that the child has bonded with the applicant and considers her as her mother. 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 Applicant CNK is authorized to adopt the child known as Baby Baby JB.
- b. Upon adoption, the child will be known as IWK.
- c. The child is declared a Kenyan citizen by birth, her birth date shall be 29<sup>th</sup> January 2022, and the place of birth shall be Mau Summit Kuresoi.
- d. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- e. The Director of Immigration is directed to issue the child with a passport after all application procedures have been met.
- f. RKC and MWK are appointed as the legal guardian of the child.
- g. The guardian ad litem is hereby discharged.

Orders accordingly

**DATED AND DELIVERED AT NAIROBI THIS 20<sup>TH</sup> DAY OF JUNE 2024**

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**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Wairimu h/b for Kangethe for the Applicant

Ms Gisiele M court Assistant

