



**In re LW (Child) (Adoption Cause E002 of 2023)
[2024] KEHC 7335 (KLR) (20 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7335 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
ADOPTION CAUSE E002 OF 2023**

CW GITHUA, J

JUNE 20, 2024

IN THE MATTER OF THE CHILDREN ACT NO. 29 OF 2022

AND

IN THE MATTER OF CHILD LW

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY:

IN THE MATTER OF

SJNM APPLICANT

RULING

1. By an Originating Summons filed on 18th October 2023, the applicant moved this court seeking that she be allowed to adopt Baby LW ; that the Registrar – General be directed to make appropriate entries in the Adopted Children’s Register and that AWK be appointed as the minor’s legal guardian.
2. According to the pleadings, the applicant is a Kenyan citizen domiciled in Murang’a County. She is a single lady aged 40 years old and she is a teacher by profession. She professes the Christian faith.

In support of her application, the applicant stated that she wanted to adopt the child in question since she was not blessed with children of her own and she has always desired to parent a child who was in need of a family and affection.
3. From the material presented before me, Baby LW was born on 23rd January 2018 to her mother HGM at her home before she was taken to Gatundu Level 5 Hospital. HGM together with her mother subsequently went to KKPI Adoption Society and offered the child for adoption. They signed affidavits dated 2nd May 2018 to signify their consent to the adoption. Subsequently, KKPI Adoption Society declared the child free for adoption.



4. The court record further shows that the County Coordinator for Children Services and officers from KKPI Adoption Services made home visits and made social inquiries with a view to determining the applicant's suitability to adopt the child. They filed separate reports on 28th November 2023 and 4th March respectively which were favourable and recommended adoption of the child by the applicant. On 8th February 2024, this court upon application by the applicant appointed MKI as the child's guardian ad litem.
5. During the hearing on 29th April 2024, the applicant testified and confirmed that she has had sole custody and control of the child since she was one year eight months old and she was currently over six years old. She had been raising her as her own biological child and was ready to continue doing so and offer her both emotional and material support if her application was allowed.
6. Having carefully considered the summons together with all the documents filed in its support, I find that the applicant has complied with all the requirements for local adoption as stipulated in Section 184 to Section 186 of the *Children Act*. From the evidence on record, I am satisfied that the applicant has sufficiently demonstrated that she is a mature and responsible lady who is socially, emotionally and financially capable of providing a stable and warm home as well as a conducive environment for the child's emotional support, growth and development.
7. Article 53 (2) of the *Constitution* expressly provides that when considering any decision involving a child, the child's best interest must be given priority. It provides thus :

“ A child's best interest are of paramount importance in every matter concerning a child.”

This constitutional principle has been entrenched in the *Convention on the Rights of the Child* at Article 3 (1) which provision is replicated in Section 8 (1) of the *Children Act* No. 29 of 2022 which is in the following terms;

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies—

- (a) the best interests of the child shall be the primary consideration;
- (b) the best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.”

8. Section 8 (2) proceeds to state that;

“All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this *Act* or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to—

- (a) safeguard and promote the rights and welfare of the child;
- (b) conserve and promote the welfare of the child; and
- (c) secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.”

9. Applying the above principles to the facts of this case, I have no doubt in my mind that it will be in the best interest of Baby LW to be adopted by the applicant. The child has been living with the applicant since 15th October 2019 and the two have established a close familial relationship which has seen the



child recognize the applicant as her mother. As correctly noted in the KKPI Adoption Society's Report, allowing the proposed adoption will enable the child gain from the opportunities that would accrue from being raised in the applicant's home as opposed to growing up in an institution. Allowing the application is the only way that the child's rights and welfare can be protected and promoted.

10. Flowing from the foregoing, It is my finding that the instant Originating Summons is merited and I accordingly allow it on the following terms;
- i. The applicant is allowed to adopt Baby LW who shall henceforth be known as MJM .
 - ii. The Registrar- General is directed to enter this adoption in the Adopted Children Register.
 - iii. That AWK is appointed as the child's legal guardian in the event of the death or incapacity of the applicant before the child attains full age and is self-reliant.
 - iv. The guardian ad litem is hereby discharged.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 20TH DAY OF JUNE, 2024.

C.W. GITHUA

JUDGE

In the presence of:-

The Applicant

Ms. Susan Waiganjo Court Assistant

