



REPUBLIC OF KENYA



**KENYA LAW**

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**In re Baby SN (The Child) (Adoption Cause E100 of 2023)  
[2024] KEHC 11693 (KLR) (Family) (12 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 11693 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**ADOPTION CAUSE E100 OF 2023**

**PM NYAUNDI, J**

**JULY 12, 2024**

**IN THE MATTER OF THE CHILDRENS ACT NO. 29 OF 2022**

**AND**

**IN THE MATTER OF BABY SN (THE CHILD)**

**IN THE MATTER OF**

**CKN ..... 1<sup>ST</sup> APPLICANT**

**RMBN ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Vide Originating Summons, dated May 30, 2023 the Applicants herein seeks the following orders, that:-
  - i. They be authorized to adopt SN
  - ii. The child to be known as SNN
  - iii. JWN and RNN be appointed as Legal Guardians of the child.
  - iv. The child be presumed to be a Kenyan Citizen by birth
  - v. The Registrar General be directed to enter this adoption into the register of Adoptions.
  - vi. The Director of Immigration be authorized to issue the child with a Passport.
2. The Applicants have been married since 2000. The 1<sup>st</sup> Applicant is a Kenyan Citizen by birth while the 2<sup>nd</sup> Applicant is a Congo Citizen by birth and eligible to obtain Kenyan Citizenship by virtue of marriage to the 2<sup>nd</sup> Applicant. They currently reside in Sweden in Stockholm. The 1<sup>st</sup> Applicant is a Truck Driver in Sweden by Profession while the 2<sup>nd</sup> Applicant is a Nurse in Sweden.



3. Through the online platform in Court via viva voce evidence, the Applicants averred that they are blessed with two biological children aged 9 and 5.
4. They stated that they wish to adopt the minor who is their niece to enable the child to migrate to Sweden hence kinship adoption provided under Section 193 of the [Children Act](#) 2022. The Applicants averred that they have means to provide for the child and that they understand the legal implications of an adoption order which is not reversible.
5. They further stated that they have made arrangements for the child accommodation when she joins them including providing the child with social security number.
6. It's the Applicants' averment through their filed statement that they have had care and control of the child for more than two years since January, 2020. They are financially stable and able to provide fully for the child. Additional, the Applicants have been investigated by Little Angels Network Society and found to be fit to adopt the child.
7. FNN is the biological father of the minor herein and he asserted that the minor was born in 2008. The 1<sup>st</sup> Applicant is his brother and he understands that adoption order is not reversal thus consented to the adoption proceedings. According to his statement, he stated that he was unable to take care of the child due to unemployment resulting him to approach Little Angels with intention of giving up the child for adoption to is elder brother and his wife.
8. LNN is the biological mother of the minor herein, she asserted that she understands the impact of an adoption order and the order is not reversible. She also submitted her handwritten consent dated 16<sup>th</sup> April, 2021 further stating that she relinquishes herself parental rights.
9. SNN (the child herein) is the subject of the present adoption proceedings was born on 13<sup>th</sup> April, 2008. The child was present in Court and averred that she is 15 years old, attends school in [particulars withheld] High School where she is in Form 2. The minor asserted that she is aware of the 1<sup>st</sup> and 2<sup>nd</sup> Applicants and she consented to the Adoption proceedings.
10. This being a Kinship adoption, the Applicants made legally necessary applications to be allowed to adopt the child and meets the Kinship Adoption requirements. The minor's mother and father sworn an affidavit of consent expressing her willingness for the process of this adoption to continue and to have the child adopted by the Applicants.
11. Upon an assessment and approval by Little Angels Network Adoption Society, consent from the minor's parents, the consent from the minor, the minor was declared free for adoption by the same Adoption Society Vide a Certificate of Freeing Serial No.XXXX dated 1<sup>st</sup> December, 2021 under Section 156 (1) of the [Children Act](#) 2022. And the Adoption Regulations.
12. On 27<sup>th</sup> July, 2023 this Court issued an order appointing MMM as the child's guardian ad litem, and further directing the guardian ad litem and the Director of Children's Services to investigate and file their respective reports within 45 days.
13. Pursuant to Section 102 of the [Children Act](#) 2022, before this matter came up for hearing, Irungu James, Children's Officer Gatundu North prepared and filed a report on 30<sup>th</sup> October, 2023 in respect of the proposed adoption of the minor by Applicants. He observed that the minor has bonded well with the Applicants, the Applicants are socially and financially stable to take care of the child. He also noted that the Applicants has appointed RNN (1<sup>st</sup> Applicant's brother) and JWN as the legal guardians of the child herein. He further stated that this being a Kinship Adoption it will be in the best interest of the minor since the Applicants have met the legal requirements as provided by [Children Act](#) 2022.



He further stated that the Applicants have proved capable of taking on parental responsibility over the child in this matter who has been under the Applicants continuous care and control. The child has strongly bonded with the adoptive Applicants, hence recommended for the best interest of the minor.

14. Another Report was filed by the guardian ad litem, MNM in which she stated that the Applicants have created a strong bond with the child and it will be in the best interest of the minor therefore recommended the adoption of the minor.
15. It was evidence from the Court that RNN and JWN (the Legal Guardians) consented to the Adoption order and stated that they live in Juja Kenyatta Road and they are prepared to assume parental responsibilities should circumstances require.
16. In addition, other Statutory Reports filed stated that the Applicants are financially and emotionally capable of providing the child with care, protection and education. They have no criminal record. This Court has evaluated the facts of this adoption. It is evident that the Applicants have fulfilled all the legal requirements relative to the adoption of the child.
17. This Court observed the Applicants with the minor in Court and it was evident that in the period that the Applicants have had the custody of the child, the child has bonded well with the her.
18. The consent of the biological parents of the child was dispensed through their written consent. This Court has satisfied itself that the Applicants are qualified and able to take care of the child.
19. After carefully assessing the records herein, I am satisfied that the Applicants have fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the [Children Act](#), 2022 provides. The court may make an adoption order on application by-
  - (1)
    - (a) Sole applicant; or
    - (b) Two spouses jointly.
  - (2) The court shall not make an adoption order in any case unless-
    - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
    - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
  - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
19. This Court is alive to the Jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) [Children Act](#) 2022. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, Section 8 of [Children Act](#) 2022 and the [UN Convention on the Rights of the Child](#) & [African Charter on the Rights & Welfare of the Child](#) all amplify on the best interests of the child.

### **Determination**

20. On the basis of a careful examination of the documents presented before me as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicants.



21. Consequently, I allow the prayers sought in the Application dated 23<sup>rd</sup> August, 2023 and order as follows:

- I. The Applicants CKN and RMB be hereby allowed to adopt SN (A Child).
- II. Henceforth, the child shall be known as SNN.
- III. Her date of birth shall be 13th April, 2008.
- IV. She is presumed to be a citizen of Kenya by birth.
- V. RNN and JWN shall be the Legal Guardians of the child.
- VI. The Registrar General to enter this order in the Adoption Register.
- VII. The Director Immigration is authorized to issue the child with a Kenyan Passport.
- VIII. The Guardian Ad litem is discharged.

It is so ordered.

**DELIVERED DATED & SIGNED IN OPEN COURT ON 12TH JULY, 2024.**

**P. NYAUNDI**

**JUDGE**

In presence of: -

Fardosa Court Assistant

