



**In re EM alias AG (Child) (Adoption Cause E022 of 2023)
[2024] KEHC 8485 (KLR) (12 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 8485 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E022 OF 2023
A MSHILA, J
JULY 12, 2024
IN THE MATTER OF THE CHILDREN’S ACT
AND
IN THE MATTER OF BABY EM ALIAS AG (A CHILD)**

IN THE MATTER OF

**CMK 1ST APPLICANT
EMM 2ND APPLICANT**

JUDGMENT

1 The application is brought by way of an Originating Summons and is dated the 4th October, 2023 and is premised under the provisions of Sections 4, 154, 156(1), 157(1), 158(1)(a) and 4(a), 159(4) (7) and 8(a), 160(1)(2) and (4), 162, 162, 163, 164(1) and 170 of the Children’s Act No8 200; Section 24 of the *Interpretation and General Provisions Act* (Chapter 2 Laws of Kenya), Section 9 of the *Kenya Citizenship and Immigration Act*, *The Constitution* 2010 and all other enabling provisions of the law The Applicants seek the following Orders;

- a That the Applicants CMK and EMM be authorized to legally adopt EM alias AG who will be known as ZWM;
- b That henceforth the child be renamed ZWM.
 - a That DGN be appointed as *Guardian Ad Litem* of Baby EM alias AG.
 - b That EM alias AG be presumed to be a Kenyan citizen by birth;
 - c PNM & MWK be appointed as next of kin and legal guardian to EM alias AG.
 - d The Registrar General do make the appropriate entry of EM alias AG in the Adopted Children’s Register.



- 2 The application was supported by a joint statement and Affidavit made by the Applicants; The *Guardians Ad Litem* DGN was appointed on the 31st day of January, 2024; This Court directed the Director of Children's Services and the *Guardian Ad Litem* to carry out a home visit and do investigations and to file their Reports.
- 3 After visiting and interrogating the Applicants the Kiambu County Children's Service Officer and the *Guardian Ad Litem* filed their respective Reports on the Applicants suitability to adopt EM alias AG the reports were duly filed in court and are dated 16th February, 2024 and 15th February, 2024; both reports are highly favourable to the Applicants and recommend their suitability as adoptive parents.
- 4 The child EM alias AG who is female is presumed to have been born on 26th June, 2021; she was abandoned at Mama Lucy Hospital and the case of abandonment was reported at Soweto Police Station vide OB No30/06/07/2021; EM alias AG was admitted on 10/01/2022 to (Particulars Withheld) Childrens Home for temporary shelter, care and protection whilst awaiting committal; under the Protection And Care Case No16 of 2022 the Children's Court sitting at Nairobi EM alias AG was formally committed vide Order issued on 14/02/2022 to the aforesaid institution for protection and care for a period of three (3) years; On the 6/04/2022 she was declared free for adoption under Section 194 of the *Children's Act* 2022 and a Certificate Serial Number XXXXXX was issued by Little Angels Network Adoption Society.
- 5 After reading and taking into consideration the contents of these Reports this court was satisfied that all the legal requirements had been adhered to notably; the Applicants are Kenyan citizens and their union was solemnized at (Particulars Withheld) Church in Nyeri County as evidenced by the Certificate of Marriage No XXXXXX; at the time of filing this application the prospective adoptive parents CMK was aged 52 years and EMM was aged 42 years and therefore both their ages fall within the prescribed legal parameters; CMK is employed at (Particulars Withheld) Church School as a teacher at whereas EMM is a caterer at (Particulars Withheld) Church; the couple have no biological children of their own but have an adopted son named HKN aged four (4) years and three (3) months The Applicants have produced into court copies of their pay-slips, Title documents and Bank Statements to prove their financial capability to support EM alias AG when they assume responsibility of her upbringing.
- 6 The Certificates of Good Conduct are current and valid and this court is satisfied that there are no adverse circumstances discernible from the families of the Applicants or any individual characteristics or lifestyle that would be detrimental to the baby;
- 7 It is noted that this is was a case of abandonment and efforts to trace her biological parents through media tracing publications in the local dailies bore no fruits as no one came forward to claim the child; this court has accordingly dispensed with the consents of the biological parents; the child appeared online and the court had the opportunity to observe the child and noted her happy demeanor and also took note that she was well taken care of;
- 8 This Court takes note that the consent of the proposed Legal Guardian has also been duly filed.
- 9 For the reasons stated above this court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders and are found to be suitable persons to adopt EM alias AG and the court is further satisfied that the order for adoption will be in the best interest of the child.
- 10 For the reasons stated above this court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders and are found to be suitable persons to adopt EM alias AG and it is satisfied that the order for adoption will be in the best interest of the child.



Findings & Determination

- 11 For the forgoing reasons this court finds that the application for adoption has merit and it is hereby allowed;
- 12 The Applicants CMK and EMM be and are hereby authorized to adopt EM she shall be known as ZWM.
- 13 The Registrar General be and is hereby directed to enter this adoption order of ZWM in the Adopted Children's Register; the Registrar Births and Deaths be and is hereby directed to issue a Certificate of Birth in the name ZWM.
- 14 The *Guardian Ad Litem* DGN is hereby discharged and PNM and MWK be and hereby appointed to stand in as next of kin and legal guardian to ZWM until the minor attains the age of majority of eighteen (18) years.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 12TH DAY OF JULY, 2024

HONA MSHILA

JUDGE

In the presence of;

Mourice – Court Assistant

Miss Mbuvi – for Applicants

