



REPUBLIC OF KENYA



**In re Adoption Order in Respect of GJJ (Minor) by Voi (Applicant) (Adoption Cause E086 of 2024) [2024] KEHC 10573 (KLR) (Family) (2 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 10573 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E086 OF 2024**

**CJ KENDAGOR, J**

**JULY 2, 2024**

**IN THE MATTER OF AN APPLICATION FOR AN ADOPTION  
ORDER IN RESPECT OF GJJ (MINOR) BY VOI (APPLICANT)**

**JUDGMENT**

1. Before this Court is the Originating Summons application dated 8<sup>th</sup> April, 2024, presented by VOI, a sole applicant seeking to be authorized to adopt Baby GJJ, hereinafter referred to as the child. Upon adoption, the child is to be known as GJJ. VAI will be appointed as the child's legal guardian upon the grant of the adoption orders.
2. The Applicant is a Kenyan citizen, as evidenced by her Kenyan National Identity Card copy. She is a nurse by profession, and her bank statement and payslips evidence her financial capability and ability to provide for the child. The applicant's health status is good, as evidenced by her medical reports dated 12th March 2024, and she does not have any previous criminal records, as evidenced by her Certificate of Good Conduct issued by the Directorate of Criminal Investigations.
3. The applicant has indicated that she would like to legalize her relationship with GJJ through kinship adoption to enable the child to become a complete member of her family and receive other legal benefits from VOI.
4. The applicant is the child's maternal aunt and has been taking care of her niece, GJJ since she was born. Her biological mother was a minor when the child was born.
5. The Ministry of Labour and Social Protection State Department for Social Protection and Senior Citizen Affairs – Directorate of Children's Services (Nairobi County) report dated 7<sup>th</sup> May, 2024 confirms the child's eligibility for adoption. The child, a girl, is 3 years old and is Kenyan born to AVA, sister to VOI. The child was declared free for adoption on 20<sup>th</sup> March, 2024 by Kenya Children's Home Adoption Society (KCHAS) vide freeing Certificate Serial Number XXX.



6. The child is a Kenyan citizen by virtue of Article 14 (1), which provides that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.
7. In light of the best interests of the child principle provided for under Article 53 (2) of the Constitution of Kenya, 2010. Sections 8 (1), (2), and (3) of the Children's Act No. 29 of 2022 and the 1<sup>st</sup> Schedule of the Children's Act No. 29 of 2022, this Court must prioritize the child's best interests in making decisions touching on her.
  - a. Article 53 of the Constitution, 2010 states that a child's best interests are of paramount importance in every matter concerning the child.
  - b. Sections 8 (1), (2) and (3) of the Children's Act No. 29 of 2022 provides as follows;
    1. 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.
    2. 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 public interest.
    3. In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the child's age and degree of maturity.
  - c. The First Schedule as provided for under Section 8 (1) of the Children's Act No. 29 of 2022 provides best interests considerations to be as follows:
    1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the child.
    2. Distinct special needs (if any) arising from chronic ailment or disability.
    3. The relationship of the child with the child's parent (s) and/ or guardian (s) and any other persons who may significantly affect the child's welfare.
    4. The preference of the child, if old enough to express a meaningful preference.
    5. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.
    6. The stability of any proposed living arrangements for the child.



7. The motivation of the parties involved and their capacities to give the child love, affection and guidance.
  8. The child's adjustment to the child's present home, school and community.
  9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the child and the other parent and/ or guardian (s), including physical access.
  10. The capacity of each parent and/ or guardian (s) to cooperate or to learn to cooperate in child care.
  11. Methods for assisting parental and/ or guardian cooperation and resolving disputes and each parent's/ guardian's willingness to use those methods.
  12. The effect of the child if one parent/ guardian has sole authority over the child's upbringing.
  13. The existence of domestic abuse between the parents/ guardian (s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the child.
  14. The existence of any history of child abuse by a parent and/ or guardian (s); or anyone residing in the same dwelling as the child.
  15. Where the child is under one year of age, whether the child is being breast - fed.
  16. The existence of a parent's (s) or guardian's (s) conviction for a sex offense or a sexually violent offense under the *Sexual Offences Act*.
  17. Where there is a person residing with a parent or guardian, whether that person; -
    - a. Has been convicted of a crime under this Act, the *Sexual Offences Act*, the Penal Code or any other legislation.
    - b. Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.
- (18) Any other factor which may have a direct or indirect effect on the physical and psychological well-being of the child.
8. The report from the Ministry of Labour and Social Protection State Department for Social Protection and Senior Citizen Affairs – Department of Children's Services (Nairobi County), the report from Kenya Children's Home Adoption Society (KCHAS), the guardian ad litem and the proposed legal guardians indicate that the child is well known to the adoptive parent and that she will be well taken care of in her care and custody.
  9. I interviewed the child's biological mother, who stated that she was willingly offering her consent for the child to be adopted by her sister VOI. She explained the circumstances leading to the child being in the care and custody of the applicant and was content that the child had bonded with and was well taken care of by the applicant.



10. The child has been in a stable home with her adoptive parent since she was born. The applicant wants to legally adopt the child through kinship adoption to legalize the relationship and provide the child with legal benefits.
11. The applicant has demonstrated that she has the child's best interest at heart and will provide for, protect, support, and maintain the child as her own.
12. In the circumstances, I allow the originating summons dated 8<sup>th</sup> April, 2024 and make the following orders:-
  - a. The Applicant VOI is authorized to adopt the child known as GJJ
  - b. Upon adoption, the child shall be known as GJJ.
  - c. The child is declared a Kenyan citizen by birth and is entitled to all rights and benefits under the Constitution of Kenya, 2010, and all applicable laws.
  - d. VO and CS are appointed as legal guardians of the child.
  - e. The Registrar General is directed to make the relevant entries in the Adopted Children's Register for the child.
  - f. The Registrar of Births and Deaths is directed to issue a new birth certificate in respect of the child.
13. It is so ordered.

**DATED AND DELIVERED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THE 2<sup>ND</sup> DAY OF JULY, 2024.**

**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Hellen

