



**In re Baby D aka DTM aka Newborn (Unknown) (Adoption Cause E266 of 2023)
[2024] KEHC 11262 (KLR) (Family) (19 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 11262 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E266 OF 2023
CJ KENDAGOR, J
SEPTEMBER 19, 2024
IN THE MATTER OF THE CHILDREN’S ACT NO. 8 OF THE LAWS OF KENYA
AND
IN THE MATTER OF ADOPTION OF BABY D AKA DTM AKA NEWBORN (UNKNOWN)**

IN THE MATTER OF

PMK 1ST APPLICANT

JWM 2ND APPLICANT

JUDGMENT

1. The Originating Summons before me is dated 27th December, 2023. It is expressed to be brought under Sections 183, 184, 185, 186, 194, 200, 201 of the [Children Act](#) 2022 Laws of Kenya. The Applicants, PMK and JWM seek orders:-
 1. That the Applicants herein be authorized to adopt Baby D.T.M, a minor who is to be known as T.N.M and the Registrar General be directed to enter this adoption into the Register of Adoptions.
 2. That MWM be appointed as the Legal Guardian of the child.
 3. That the child be presumed to be born in Kenya.
2. The Summons is supported by a joint statement and affidavit by the Applicants. The Court directed that the Children’s Department do investigations and file a Report. A report has been duly filed in Court. It is dated 11th June, 2024. The Court appointed a Guardian ad Litem to investigate and file a report. LWM, the Guardian ad Litem, has also filed a report dated 12th June, 2024.



3. The Minor was found abandoned at Kenya Air Force along Juja Road, Huruma Area, on 7th October, 2022. A good Samaritan rescued her. The matter was reported at Huruma Police Station as OB No. 28/08/10/22. Later, the child was committed to [Particulars Withheld] Children's Home through the Children's Office and Nairobi Children's Court. The minor was finally taken in by the KKPI Adoption Society, which issued a Certificate to declare her free for adoption on 30th August, 2023.
4. The Applicants are Kenyan citizens. They formally got married on 10th April, 2010 at [Particulars Withheld] Church. They filed a copy of their Marriage Certificate. The Applicants live in Johannesburg, South Africa, and work as financial advisors in their company. They live in their own house in [Particulars Withheld], Embakasi. They have no biological children of their own. According to the documents produced in court, they are financially capable and perfectly willing to assume the responsibility of bringing up the minor. They attached copies of their bank statements and company incorporation details.
5. The Applicants have attached copies of Clearance Certificates from South Africa showing that they have never been convicted of any criminal offence. All the information placed before me demonstrates that the Applicants are emotionally and financially stable individuals fit to take parental responsibility for the minor.
6. The KKPI Adoption Society investigated the Applicants and found them fit as adoptive parents. A copy of the Home Study Report and Home Assessment was annexed.
7. The Report by the Guardian Ad Litem and the County Children's Coordinator was duly filed. They are favourable to the Applicants and highly recommend the adoption.
8. The minor has been in the care and protection of the Applicants since 6th September, 2023. The Guardian Ad Litem and the County Children's Coordinator report that the child has bonded very well with the Applicants.
9. The Applicants wish to have MWM, as the Legal Guardian of the minor. She appeared before me and confirmed that she had consented to this appointment.
10. The Applicants, the Guardian Ad litem and the Legal Guardian appeared before me and satisfactorily answered questions posed by the Court.
11. The primary consideration in an Adoption Application is whether the Applicants have fulfilled all the prerequisites to be granted the Adoption Orders. These are mainly found in Sections 158 and 163 of the *Children Act*. I have now carefully read all the documents filed in the case. I have confirmed that all the reports and consents needed are on file. The minor is free for adoption, and KKPI, an authorized adoption society, has issued a Certificate to that effect. The biological parents are certifiably unknown, and their consent is hereby waived. The consents of the proposed Guardian and the Applicants are on record.
12. I have also read the Report filed by the County Coordinator of Children Services and the reports by the Guardian Ad Litem and the Adoption Society. All reports are unanimous that it will be in the minor's best interests for the Court to grant the Adoption Orders. I see no reason to dissent from those views. I am satisfied that the Applicants meet all the attributes required of Applicants in Section 158 of the *Children Act*. I am also satisfied that the Applicants understand the consequences and import of Adoption Orders. Finally, I am satisfied that it is in the best interests of the minor that the adoption orders be granted.



13. Having considered all the evidence and perused all the documents, I am persuaded that the Applicants are fit adoptive parents who will provide a suitable home and parentage for the minor herein. Consequently, I allow the Originating Summons and grant the following prayers:

- i. That the Applicants be and are hereby authorized to adopt BabyD aka DTM aka Newborn (Unknown) and the child shall be known as TNM henceforth.
- ii. That TNM be and is hereby presumed to be a Kenyan citizen, having been found in Kenya at the time of her birth.
- iii. That the Registrar-General do make appropriate entries in the adopted children's register in respect of the minor, TNM.
- iv. That the Registrar of Births and Deaths is hereby directed to issue the child a birth certificate in the name BWM.
- v. That MWM be and is hereby appointed Legal Guardian to the minor herein.
- vi. That the Guardian ad Litem is discharged.

14. It is so ordered.

DATED, DELIVERED AND SIGNED THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON 19TH SEPTEMBER, 2024.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Berly

Advocate for Applicants: Muhanda

