



**In re DDN (Minor) (Adoption Cause E030 of 2024)
[2024] KEHC 10764 (KLR) (Family) (19 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 10764 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E030 OF 2024
H NAMISI, J
SEPTEMBER 19, 2024
ADOPTION CAUSE NO E030 OF 2024
IN THE MATTER OF THE CHILDREN ACT, CAP 141 OF THE LAWS OF KENYA
AND
IN THE MATTER OF BABY D. D. N (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION
IN THE MATTER OF
SAO 1ST APPLICANT
AWN 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 8th February 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. That the consent of the biological father of Baby D. D. N. Be and is hereby dispensed with since he abandoned the infant at birth;
 - ii. That the Applicants be and are hereby authorised to adopt Baby D.D.N and the child be called D.D.O henceforth;
 - iii. That the Registrar General do make the appropriate entries in the Adopted Children’s Register in respect of Baby D.D.N;



- iv. That the court does issue such other orders as may be necessary in the best interests of the child
2. The matter was canvassed by way of viva voce evidence on the virtual platform on 4th and 18th July 2024.

The Child

3. The child (male) was born on 14th June 2019 to M.W.N, a sister to the 2nd Applicant. At the time of his birth, the biological mother was aged 24 years old and residing with the Applicants. Regrettably, the child's biological father denied responsibility for the child. The child is currently 5 years old and enrolled in school. He has been residing with the Applicants since he was 5 months old.

The Applicants

4. The Applicants are Kenyan citizens, residing in Ongata Rongai, Kajiado County. They are a married couple, having celebrated their nuptials in September 2023. The 1st Applicant is a legal researcher, while the 2nd Applicant works as a caregiver. They have 4 other children born in 2012, 2013, 2021 and 2022. The 2nd Applicant is a maternal aunt to the child.
5. The Applicants' motivation for the adoption is that they would like to give the child a home, legally. In their Statement in Support of the Application, they state that they have been primary caregivers for the child since his birth. The child has interacted well with the Applicants' biological children and that their only desire is to permanently make the child a part of their family.
6. The Applicants presented copies of their Mpesa Statements, recommendations and referee information, all pursuant to the provisions of *The Children (Adoption) Regulations*, 2020. These disclose that the Applicants are financially, socially, physically and mentally fit to adopt the child. The Applicants confirmed that they fully understand the implications of an Adoption order and that the same is irreversible.
7. Additionally, pursuant to section 195 of the *Children Act*, the Applicants provided consent from the 1st Applicant's mother, Rosemary Apondi Ochieng, agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants.

The Biological Parents

8. The biological mother, M.W.N, was 24 years old when she was blessed with the child herein. She confirmed to the Court that she is not ready to raise the child, and thus, consented to the adoption by the Applicants.
9. The biological father, J.M.N, did not appear before the Court but filed a consent to the adoption and relinquishing his rights as the father to the child.

The Adoption Approval Process

10. KKPI Adoption Agency conducted an assessment of the Applicants and sought the consent of the biological parents, as well as members of the extended family. The Agency filed its report dated 10 January 2024 recommending the adoption of the child. The child was declared free for adoption by the KKPI Adoption Agency vide a Certificate of Declaring a Child Free for Adoption serial number 545.
11. On 13th May 2024, the Court issued an order appointing W.N.K as the child's Guardian ad Litem, and further directing the Guardian ad Litem and Director of Children's Services to investigate the suitability and fitness of the Applicant and subsequently file their respective reports.



12. The Guardian ad Litem filed her report dated 22nd March 2024, noting that the Applicants provide a safe, loving and nurturing home for the child. The Directorate of Children’s Services, Nairobi County filed its report dated 20 May 2024, recommending the adoption of the child by the Applicants herein.
13. Section 193(1) of the *Children Act* provides that kinship adoption order may only be made in favor of a relative of the child. In this instance, the Applicant is a maternal aunt to the child.
14. In view of the foregoing, the court is satisfied that:
 - i. The proposed adoption is a kinship adoption, meaning that the child will continue to be within the family.
 - ii. The adoption will be in the best interest of the child; and
 - iii. The Applicants have been approved as prospective adoptive parents by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus they are able to effectively handle their parental responsibilities
15. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
 - i. The Applicants, S.A.O and A.W.N, are hereby authorised to adopted the child currently known as D.D.N, who will henceforth be known as D.D.O;
 - ii. The Registrar General is directed to enter this Order in the Adopted Children’s Register and to issue a Certificate to that effect;
 - iii. The Guardian ad Litem is hereby discharged;
 - iv. R.A.O is hereby appointed as the legal guardian of the child D.D.O.

DATED AND DELIVERED AT NAIROBI THIS 19 DAY OF SEP 2024

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on a virtual platform in the presence of

Ms. Kalama h/b Ms Ooga.....for the Applicants

