



**In re Adoption of Baby JMM (Minor) (Adoption Cause E183 of 2023)
[2024] KEHC 15497 (KLR) (Family) (17 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 15497 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E183 OF 2023
EKO OGOLA, J
SEPTEMBER 17, 2024
IN THE MATTER OF THE CHILDREN’S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY JMM (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY SKK AND CNN**

IN THE MATTER OF

SKK 1ST APPLICANT

CNN 2ND APPLICANT

JUDGMENT

1. The Originating Summons before this court is dated 22nd September 2023 by which the applicants pray for the following orders: -
 - a. That the applicants be authorized to adopt baby JMM a minor who is to be known as KKK and the Registrar General be directed to enter this adoption into the Register of Adoption;
 - b. That GWK be appointed as the legal guardian of the child.
 - c. That the child be presumed to be born in Kenya.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicants and an affidavit in support of the application. The matter was canvassed by way of viva voce evidence in court.



3. PW 1 was the 1st applicant. He testified that the child was placed in his care on 17th May 2023. He added that he and his wife do not have biological children, and that is the reason they desire to adopt. PW1 is a civil servant, and the 2nd applicant is a businesswoman. Therefore, they are financially capable of taking care of the child.
4. PW2 was GWW, the proposed legal guardian. PW3 was EML, an officer from Buckner Adoption. PW4 was NO an officer from the Directorate of Children Services. They all testified in support of the adoption. The guardian ad litem filed a report recommending the adoption.

Determination

5. I have carefully considered this adoption application, the various affidavits and reports on record, and the relevant law. I have also considered the evidence adduced in open court.
6. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the Children's Act 2022 which provides as follows:

“ 184 (1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”

7. The child was born on 16th February 2021 to CN. The biological mother gave birth to the child at home and when the child was admitted to Kenyatta National Hospital, she disappeared. The matter was reported to Kenyatta Police Post under OB No. 19/17/2/2021. Upon discharge from the hospital, the child was admitted to Imani Rehabilitation Agency on 5th July 2021. The child was later admitted to the said institution under P&C Case No. MCP&CCO/E682 of 2021. On 10th May 2023 the child was declared free for adoption by Buckner Kenya Adoption Services under Certificate of Freeing No. 0644. The child was placed with the applicants on 17th May 2023.
8. From the foregoing, the legal prerequisites for an adoption order have accordingly been met.
9. The duty of this Court is to analyze the material placed before it and decide as to whether the applicants are suitable adoptive parents. The Applicants are a Kenyan citizen and are financially stable. Hence, they are in a good position to provide for the child's needs. The applicants were also examined and found to be physically and mentally fit. Furthermore, there are copies of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicants have no criminal antecedents. From the foregoing, I am satisfied that the applicants are suitable adoptive parents.
10. Article 14 of *the Constitution* deals with the issue of Citizenship. Article 14(4) provides as follows:

“(4) A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by birth.”
11. From the provision, the child is a Kenyan citizen by birth..



12. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1)(a) of the *Children Act* 2022 provides:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”

13. The child has lived with the applicants for one year. There is no doubt that the child sees the applicants as his parents. The various reports filed in court all recommend the adoption. Therefore, I am satisfied that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -

- a. The Applicants are authorized to adopt the child known as Baby JMM.
- b. Upon adoption, the child will be known as KKK.
- c. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- d. GWK is appointed as the legal guardian of the child.
- e. The guardian ad litem is hereby discharged.

Orders accordingly

DATED AND DELIVERED AT NAIROBI THIS 17TH DAY OF SEPTEMBER 2024

E.K. OGOLA

JUDGE

In the presence of:

Ms. Kemunto for the Applicants

Ms Gisiele M court Assistant

