



**In re NET (A Child) (Adoption Cause E023 of 2023)
[2024] KEHC 12634 (KLR) (18 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 12634 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E023 OF 2023
A MSHILA, J
OCTOBER 18, 2024
IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF
NET (A CHILD)**

IN THE MATTER OF

**TKN 1ST APPLICANT
EWT 2ND APPLICANT**

JUDGMENT

1. The application is brought by way of an Originating Summons and is dated the 11th October, 2023; and is premised under the provisions of Sections 158 and 170 of the Children’s Act; and Rule 7 of the General Rules and Regulations and all other enabling provisions of the law; The Applicants seek the following Orders;
 - a. That the Applicants TKN and EWT be authorized to legally adopt NET who will be known as NET;
 - b. That OMRW be appointed as Guardian Ad Litem of NET;
 - c. The Registrar General do make the appropriate entry of NET in the Adopted Children’s Register.
2. The application was supported by a joint statement and Affidavit made by the Applicants; The Guardian Ad Litem OMRW was appointed on the 5th April, 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 respective Reports.



3. After visiting and interrogating the Applicants the Thika Sub-County Children's Office and the Guardian Ad Litem filed their respective Reports on the Applicants suitability to adopt NET the reports were duly filed in court and are dated 8th May, 2024 and 16th May, 2024;
4. NET who is male was born on 11th February, 2007 is the last born of JET and LWT who are also the parents of EWT who is the step-sister and the prospective adoptive mother. The biological parents have given him up for adoption to his elder sister and the spouse as they believe it is in the best interest of the child. On the 30th May, 2023 he was declared free for adoption under Section 194 of the Children's Act 2022 and a Certificate Serial Number 00594 was issued by the Change Trust Adoption Society.
5. After reading and taking into consideration the contents of these Reports this court notes that the Applicants have dual citizenship Kenyan and British and are domiciled in the United Kingdom; they solemnized their marriage at the Bible Translation Literature Office on 15/04/2017 as evidenced by the copy of the attached Certificate of Marriage Serial No.36738; at the time of filing this application the prospective adoptive parents TKN was aged 39 years and EWT was aged 35 years; and the minor is aged 17 years.
6. On the issue of the age of the prospective adoptive parents the applicable law is found at Section 186 (2) (b) of the new Childrens' Act and it reads as follows;
 - (2) The court shall not make an adoption order in any case unless -
 - (b) the applicant or both of the applicants in a joint application is more than twenty- one years older than the child
7. The child NET is a blood relation to EWT in that she is his elder sister and therefore the above restriction is resolved and qualified by the provisions of Section 186 (3) which then means both their ages fall within the prescribed legal parameters; The Applicants have no biological children of their own.
8. TKN is employed as a Paramedic and is an employee of E-Human Limited whereas EWT is a lawyer and is also an employee of E-Human Limited; the Applicants have produced into court copies of their pay-slips and Bank Statements to prove their financial capability to support NET when they assume responsibility of his upbringing.
9. 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 child;
10. It is noted that this is was a case of kinship adoption and the biological father deposed that he has separated with the child's biological mother and have now both signed Consents dated 2/08/2024 and have indicated thereon that they have willingly offered and consented to the adoption. The applicable law is found at Section 186 (8) which reads as follows;

‘Subject to the provisions of this section an application for an adoption order in respect of a child shall be accompanied by written consents of the following persons;

 - a. A parent or guardian of the child, or any person who is liable by virtue of any order of agreement to contribute to the maintenance of the child.’”
11. This court has perused the written consents by the biological parents which are a mandatory requisite and finds the consents to be in order. The child who is aged seventeen (17) years has consented to the adoption vide his undated letter;



12. For the reasons stated above this court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders sought to be granted;

Findings & Determination

13. For the forgoing reasons this court finds that the application for kinship adoption is in the best interest of the child and it is hereby allowed.
14. The Applicants TKN and EWT be and are hereby authorized to adopt NET. The child shall be known as NET.
15. The Registrar General be and is hereby directed to enter this adoption order of NET in the Adopted Children's Register;
16. The Guardian Ad Litem be and is hereby appointed to stand in as next of kin and legal guardian to NET until the child attains the age of majority of eighteen (18) years.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 18th DAY OF OCTOBER, 2024.

HON. A. MSHILA

JUDGE

In the presence of;

Mourice – Court Assistant

Mwangi – for Applicants

