



**In re Baby NN (Minor) (Adoption Cause E021 of 2023)
[2024] KEHC 11776 (KLR) (1 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 11776 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E021 OF 2023
MW MUIGAI, J
OCTOBER 1, 2024
N THE MATTER OF CHILDREN ACT 2022
AND
IN THE MATTER OF BABY NN (MINOR)**

**IN THE MATTER OF
JNK APPLICANT**

JUDGMENT

1. Pursuant to the Judgment delivered by this Court on 29th day of February, 2024 the Court observed as follows; -
 1. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant’s application.
 2. The Applicant, JN is hereby allowed to adopt child NN on condition;

The Adoption Agency Little Angels Network file a Report and/or appear in Court as the Certificate Freeing the child for Adoption and documents about the Applicant are only filed. The Adoption Agency to regularize the matter within 30 days.

Notice of Motion

2. The Applicant herein filed an application dated 29th May, 2024 and sought the following prayers:
 - a. (spent)



- b. That the Report filed by the Adoption Agency (Little Angels Network) be admitted as per the judgment delivered on 29th February, 2024
 - c. That this Court issue the full and final judgment in the matter.
3. The Application is supported by the Affidavit by Austin Njenga an Advocate of the High Court sworn on even date deponed as follows:-
 - a. That this Court delivered a Judgment in this matter on the 29th February, 2024.
 - b. That the said Judgment was conditional on the Adoption Agency (Little Angels Network) filing a report and/or appearing in Court within 30 days of delivery of the judgment.
 - c. That the parties have appeared in Court on several dates to wit, 18/04/2024, 15/05/2024 and 25/06/2024 and 23/07/2024 for the purpose of compliance.
 - d. That the Little Angels Network has complied with the directions of the Court and duly filed the said Report.
 - e. That the delays in finalizing the matter are against the best interest of the child.
 - f. That unless this court urgently intervenes and grants the Orders sought herein, the child stands to suffer immense prejudice.
4. The Applicant herein, JNK – ID. Number xxxxxxx (“the Applicant”) had sought by her application to be allowed by this Court to adopt NN (hereafter “the child”).
5. Vide Originating Summons application dated 28/08/2023 the Applicant had sought among other orders; that the Applicant herein JNK be authorized to adopt NN (child) who is to be known as NNNN; that AKK and RJC be appointed as the Legal Guardians of the child in the event of the death or incapacity of the Applicant before the child is of full age and fully self-reliant; that the Director of Immigration be authorized to issue the child with a Kenyan Passport; The Applicant herein further sought orders; that MKK of Identification Number xxxxxxx be appointed as the Guardian *Ad Litem* in this cause and that this Court directs the Director of Children’s Services, Ministry of Labour, Social Security and services investigate the Applicant fitness to adopt and file a report. MKK of ID No xxxxxxx was appointed by this Court as the Guardian *Ad Litem* on 23/10/2023.
6. The child (NN) the subject of the present adoption proceedings was born on 25th February, 2010 at [Particulars withheld] Sub-location within Migori County. She is the daughter of the late CWK. The child’s Mother (CWK) passed on on 10th August 2022 vide death certificate Serial No xxxxxxx (burial Permit and the death certificate attached).
7. The late CWK was the 3rd born child of the Applicant herein JNK. The Applicant has been living with the child and her late mother since 2017 and continued to live with the child after the child’s mother passed away in 2022. The Applicant reached out to Little Angels Network with the intention of adopting her granddaughter and the child has since been declared free for adoption vide Certificate Declaring Child Free for Adoption Serial No xxxxx.
8. The Applicant herein JNK is a resident of Athi River within Machakos County. The Applicant is a single mother of 4 biological children. The Applicant was married to one NK but they later separated in 2010. She filed for divorce in 2018 and a Decree Nisi issued 18/09/2018. The Applicant and her ex-husband had four (4) children namely (a) VN – 38 years, (2) AKK – 36 years, CWK –deceased – (the child’s mother in these proceedings) and WW – 30 years.



9. Pursuant to the *Children Act*, Kenya Children's Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by the Applicants.
10. The Guardian *Ad Litem*, MKK of ID No xxxxxxxx a Social Worker filed the statutory Report in which she noted that the proposed adoption of the child by the Applicant would be in the best interests of the child.
11. The Little Angels Network Kenya filed their comprehensive report dated 5th May, 2023 on 7th August, 2024.
12. On 30/09/2024 Mr. Joshua M. Wambua from the Agency appeared in Court in support of these Adoption proceedings. He told the Court that they filed their Report on 7/08/2024. The said adoption is kinship Adoption whereby the Applicant herein is adopting her granddaughter. The mother of the child is deceased. She passed on on 10/08/2022 vide death Certificate Serial No xxxxxxxx and the Burial permit serial No 0318497 attached. The Applicant has had the custody of the grandchild since the child was orphaned and from the interviews and home visits it was observed that the Applicant has bonded well with the child. The Applicant was taking care of the grandchild even when the minor's mother was alive and ailing. The child herein was declared Free for Adoption vide Certificate issued on 5/05/2023.
13. Similarly, according to the Report, JN the Applicant herein made an adoption application in favour of the child NN her granddaughter. The Applicant gave the Agency contact of the child's maternal grandfather and her ex-husband Mr. NKK Upon contacting the grandfather, he told them that the child's mother (C) and the child N lived with him and he catered for both of them. In 2017 C and N then moved to Nairobi and stayed with the Applicant until the unfortunate demise of the child's mother (C). The Applicant was providing for both the child's mother and the child. The family sat and decided that the child herein continue living with the Applicant.
14. The Applicant is a businesswoman earning an income of Kshs 130,000/-. She is currently divorced as per the Decree Nisi dated 13/09/2018 attached. The Applicant and her ex-husband share a good and cordial relationship. They were blessed with 4 children VN, AK, the late CW (the child's mother) and WW. The Applicant lives in 3 bedroomed permanent house at [Particulars withheld] Estate in Athi River.
15. Mr. NKK the child grandfather signed Consent on 28/04/2023 abdicating his rights and responsibilities as the child's guardian and gave up his grand daughter for adoption in favour of his ex-wife the Applicant herein. During an interview with the Agency Program Officer Mr. NK (the child's maternal grandfather) stated that he married the Applicant herein in the year 2000 and were blessed with four children. That C, the child's mother lived with him in Nakuru where she studied upto her Diploma Level.
16. N the child herein during the interview stated that she was 13 years old and in grade 7. She was aware of the adoption process and expressed excitement and joy regarding the same. She further stated that she is happy about the adoption process and described the Applicant as her mentor and confidant. On their Agency assessment on this matter it was observed that the prospective Adoptive parent has not only accepted the child but also committed herself to undertaking parental responsibility. The Applicant and the child NN have lived together since 2017 when her biological mother moved to live with the Applicant. The applicant has taken commendable care of the child and this adoption process is meant to formalize an already relationship. The Adoption Society recommends the adoption.



17. The Director of Children’s Services had filed their report dated 02/02/2024 in respect of the proposed adoption of the child by the Applicants. Emily Kimanzi the Machakos Sub County Children Officer appeared in Court on 8/02/2024 in respect of the proposed adoption of the child by the Applicants. She told the Court that the child is from a single parent and needs a family. The Applicant who is the child’s grandmother has been taking care of the child even when the child’s mother was alive.
18. Similarly the Report indicated that during the home visits it was observed that the Applicant lives in her own 3 bedroomed house in [Particulars withheld] Estate which she bought in 2016. The Applicant lives with the N – the child herein and nanny who helps with domestic chores. The Applicant is financially stable – financial statements attached. She also owns 2 houses at Syokimau, a vehicle and another 5 bedroomed house in Nakuru (documents of ownership attached). The Applicant’s three biological children; AKK, VN and WKW are in full support of the process and have given their written consents]. The Applicant further states that her motivation to adopt her granddaughter is to fill the gap that her mother left when she passed on. The Applicant is willing to educate the minor to the highest level of education and will be entitled to inherit the Nakuru property and the house at [Particulars withheld]. The Director of Children’s Services has recommended the adoption.
19. The Guardian *Ad Litem*, MKK of ID No xxxxxxxx filed her Report dated 26/11/2023 and filed in Court on 7/02/2024 in support of these Adoption proceedings. She appeared in Court on 8/02/2024. She told the Court that she visited the Applicants and observed that the child and the grandmother have bonded very well and the grandmother is ready to take full responsibility of the child. Similarly the report indicated that during the home visits it was observed that the child feels safe and peaceful and she loves the prospective mother as she has taken the responsibility of taking care of her and has made sure she is part of the family. The Applicant is financially stable hence able to provide for the child. The Guardian *Ad Litem* recommended the adoption.
20. The Legal Guardians AKK and RJC - of Identification Card Numbers xxxxxxxx and xxxxxxxx respectively are a son and daughter in law to the Applicant. They each filed their Affidavit of Consent to be appointed as Legal Guardians sworn on 11/09/2023. They stated that they are aware that their role entails responsibility over the child herein concerning her support, care, education, health and welfare in the event of the Applicant’s death or incapacity before the child attains the age of majority.
21. The Court considered the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a kinship adoption. It is evident that the Applicants has fulfilled all the legal requirements relative to the adoption of the child.
22. The home visits by the Guardian *Ad Litem*, the Adoption Society Representative and the Director of the Children’s Services established that the Applicant is financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. This Court considers the Applicant and child a kinship adoption the grandmother has lived and taken care of the child even when her mother (Applicant’s daughter) was alive. The Applicant has been and continues to be for all practical purposes the child’s parent. This Court grants the kinship adoption.

Disposition

1. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant’s application.



2. The Applicant, JN is hereby allowed to adopt the child NN.
3. Henceforth, the child shall be known as NNNN.
4. The child's date of birth is 25/02/2010 and the place of birth shall be Igena Sub-location.
5. The child is a Kenya Citizen by birth and entitled to all rights of a Kenyan citizen.
6. AKK and RJC shall be the legal guardian of the child should such eventuality arise.
7. This Court directs the Registrar General to duly enter this order in the Adoption Register.
8. That the Directorate of Children Services to carry out supervision on the said adoption and file a report on the ongoing safety/security of the child within one year of the Adoption in the best interest of the child under Section 8 of Children's Act 2022.
9. The Guardian *Ad Litem* is hereby discharged.

It is so ordered.

DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 1ST DAY OF OCTOBER, 2024 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

In the presence of:

Mr. Njenga - For the Applicant

Geoffrey/Patrick - Court Assistant(s)

