



**In re LO aka LOO (Child) (Adoption Cause E001 of 2024)
[2024] KEHC 11970 (KLR) (1 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 11970 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E001 OF 2024
MW MUIGAI, J
OCTOBER 1, 2024
IN THE MATTER OF CHILDREN ACT 2022
AND
IN THE MATTER OF BABY LO A.K.A LOO (CHILD)**

IN THE MATTER OF

PSM 1ST APPLICANT

FKM 2ND APPLICANT

JUDGMENT

1. The Applicant herein, PSM - ID. Number 13XXXXX82 (“the Applicant”) sought by her application to be allowed by this Court to adopt Baby LO a.k.a LOO (hereafter “the child”).
2. Vide Originating Summons application dated 22nd January, 2024 the Applicant sought among other orders; that the Applicant herein PSM be authorized to adopt Baby LO a.k.a LOO an infant who is to be known as MMS; that FKM of ID. Number 22XXXXX98 be appointed as the Legal Guardian of the child upon the granting of the Adoption Order; that the Registrar General be directed to enter this adoption into the Register of Adoptions and a subsequent birth certificate be issued by the Registrar of Births and Deaths. The Applicant herein further sought orders; that FMK of ID No. 23XXXXX60 be appointed as the Guardian Ad Litem for BABY LO a.k.a LOO and that this Court directs the Director of Children's Services to make the necessary evaluations and reports within 45 days hereof. FMK of ID No.23XXXXX60 was appointed as the Guardian Ad Litem on 7/03/2024.
3. The child herein (Baby LO a.k.a LOO) the subject of the present adoption proceedings was presumably born on 2nd August, 2013 in Limuru. The child was found having been abandoned by his mother at Limuru Town. The minor had been admitted at Limuru Nursing Home on 2/01/2016 and upon discharge on 5/01/2016 the mother could not raise the bill. A Good Samaritan one TL of Telephone Number 0707XXXXX7 offered to clear the bill. After leaving the hospital and upon



reaching Town the minor's mother excused herself to go and withdraw some money leaving the minor under the custody of the good Samaritan but she never resurfaced. The good Samaritan stayed with the minor for a week which was until 12th January 2016. The good Samaritan reported the matter to Tigoni Police Station and it was recorded vide OB No. 17/12/01/2016 as per the initial police letter dated 13/01/2016 attached. The Sub County Children's Officer Limuru sought a vacancy at Limuru Children's Centre for care and protection and the minor was admitted at the said home on 12th January, 2016 as per the referral letter and admission Form attached.

4. The minor was committed at Limuru Children's Centre as a child in need of care and protection at Limuru Children's Court on 2nd March, 2016 vide Protection and Care Case No. 6 of 2016 for a period of one year. On 22/02/2017 and 6/09/2018 the committal was extended for another one year and three years respectively. Later, on 20/04/2022 the Limuru Children's Officer requested the Court to renew the minor committal for another period of three years which was formalized on 14/12/2022 as per the copies attached.
5. The Tigoni Police Station in their final police letter dated 7/03/2018 confirmed that no one came forward to claim the child and their efforts to trace the kindred of the child have been futile.
6. TL the Good Samaritan of Tel. No. 0707XXXXXX7 together with the biological mother of the child via Tel No.0711XXXXXX0 were contacted on 8/08/2022 respectively for tracing and possible re-integration of the minor with his family but the said persons were not reachable over the phone. However, the sim registrations details for the good Samaritan phone Number belonged to one JC who received the phone on 1/2/2023 but was uncooperative while the Tel Number belonging to the biological mother was registered under the names of JK but the same was unreachable as per the attached Tracing Report by Kenya Children's Home Adoption Society Personnel.
7. The minor was thus freed by the Kenya Children's Home Adoption Society's Case Committee on its sitting of 15th February, 2023 vide Certificate Declaring Child Free for Adoption Serial No.8X5.
8. The minor was later placed with the Applicant herein on 25/03/2023 and has since remained under the Applicant's care. The minor has bonded well with the Applicant and have also been enrolled at [Particulars Withheld] School where he is in grade four.
9. The following documents were availed from Kenya Children's Homes Adoption Society for LO aka LOO;
 1. Initial Police Letter from Tigoni Police Station dated 13/01/2016.
 2. Referral letter by the Sub-County Children's Officer - Limuru Sub-County.
 3. Certificate of Birth Serial No. 89XXXXX3
 4. Admission Form
 5. Medical Reports of the child
 6. Committal orders
 7. Final police letter from Tigoni Police Station dated 7th March 2018
 8. Tracing Report
10. The Applicant herein PSM is a resident of Matuu within Machakos County. The Applicant annexed the following documents in support of her application;
 1. Applicant's copy of Identification card



2. Medical Report for the Applicant
 3. Police clearance Certificate
 4. Payslip
 5. Consent of the Guardian Ad Litem
 6. Affidavit of the Legal Guardian
 7. Copy of Identification card of the Legal Guardian
11. Pursuant to the *Children Act*, Kenya Children's Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable Report of 12th February, 2024 in respect of the proposed adoption of the child by the Applicant.
 12. The Guardian Ad Litem, FMK also filed the Statutory Report dated 22nd March, 2024 in which he noted that the proposed adoption of the child by the Applicant would be in the best interests of the child.
 13. According to the Report by the Kenya Children's Home Adoption Society dated 12/02/2024, the Applicant made an adoption application to Kenya Children's Home Adoption Society on 25/02/2021. The Applicant applied to be placed with a male child with a view to eventually adopt the child. An Interview session and home assessment at her personal residence in Matuu was conducted on 28/05/2021. The Applicant was officially approved for placement with a child by the Society's Case Committee on its sitting of 16th June, 2021 and thereafter she was placed with the minor on 25/03/2023. Prior to placement baby LO aka LOO was declared free for Adoption by the Agency Case Committee sitting of 15th February, 2023 and a Freeing Certificate Serial No. 8X5 was issued by the Adoption Agency.
 14. The Applicant updated the Adoption Society on the Child's progress through visits on 19/05/2023 and on 31/08/2023. The Applicant is an employee of the [Particulars Withheld] as a Curriculum Support Officer and is currently stationed at [[Particulars Withheld] Zone (a copy of the Payslip attached). The Applicant disclosed that she has never been married but in case she gets a spouse she will ensure the adoptive Child's interest. The Applicant herein has not been blessed with a biological child of her own. The Applicant's motivation towards adoption is to be able to offer a home, parental love and support to a needy child and be able to give back to God. The Applicant confirmed that she has the required parental skill as she has helped in bringing up her sister's children as well as in school where she has been a school teacher for many years. The Applicant resides in Matuu since 2019 to date. She lives in a 2 bedroomed permanent self-contained house with water supply and electricity supply. The Applicant is confirmed to be of good general health although she has permanent paralysis on her left leg which does not limit her movement (medical report is attached).
 15. The Applicant is stable financially earning a net income of Kshs.88,000/-. The Applicant is a Christian worships at [Particulars Withheld] - Africa Inland where she is an active member. The Applicant's extended family are supportive of the Adoption whereby one of her sisters by the name FKM accepted to be the Legal Guardian of the minor and filed the Guardianship Form. The Applicant does not have a Criminal Record (police clearance report attached). The Applicant is stable financially (a copy of Payslip attached) hence capable of taking good care of the minor. The Applicant also owns a car and a piece of land. Since the placement with the minor on 25/03/2023 to date the minor has indeed bonded well with the Applicant. The Adoption Agency recommended the Adoption.



16. The Director of Children's Services filed their report dated 15/04/2024 in respect of the proposed adoption of the child by the Applicant. The Report indicated that the Applicant does not have a child of her own and this process will give her a chance to become a mother. The Applicant is financially secure. She lives in her own 2 bedroomed house in Matuu with the child and a nanny. The minor herein has the right to the Applicant's inheritance. It was observed that the Applicant has provided a conducive environment for the child to grow and develop and the child has in turn bonded well with her. The Director of Children's Services recommended the adoption for the well-being of the child.
17. The Guardian Ad Litem, FMK of ID No. 23XXXX60 filed his Report dated 22nd March, 2024 in support of these Adoption proceedings. He stated that the minor herein was placed with the Applicant for foster care on 25th March, 2023 and has been residing with the Applicant from that time to date. He further stated that he has known the Applicant for over 5 years and have interacted socially and have known her to be loving, honest, responsible, dependable and very hardworking.
18. The Applicant does not have any children of her own. During the home visits he observed that the minor herein is well settled and the applicant has taken the role of a parent and ensures that the child is well provided for. The Applicant is emotionally, physiologically and economically ready to offer herself for baby LO happiness. Baby LO a.k.a LOO is aged 10 years and seven months he is of good health. He interacts well with the Applicant and the Applicant herein is fully committed to taking care of him. The Guardian Ad litem recommended the adoption.
19. The Legal Guardian FKM of Identification Card Numbers 22XXXX98 a sister to the Applicant filed Affidavit sworn on 22nd January, 2024. She stated that she is aware that her role entails responsibility over the child herein concerning the Child's care, education, health and welfare in the event of the Applicant's death or incapacity before the child attains the age of majority.
20. All the Statutory Reports filed in respect of the proposed adoption of the child by the Applicant recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a local adoption. It is evident that the Applicant fulfilled all the legal requirements in relation to the adoption of the child.
21. 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 has emotional capability to provide for the upkeep and education of the child and give parental care.
22. This Court observed the Applicant with the child in Court and it was evident that in the period that the Applicant have had the custody of the child, the child has bonded well. The child considers the Applicant to be his mother.

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, PSM is hereby allowed to adopt Baby LO a.k.a. LOO.
3. Henceforth, the child shall be known as MMS.
4. The Child's date of birth is 2nd August 2013 and the place of birth shall be Limuru.
5. The child is a Kenyan Citizen by birth and entitled to all rights of a Kenyan citizen.



6. FKM 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 interests of the child under Section 8 of Children's Act 2022.
9. The Guardian ad litem is hereby discharged.

It is so ordered.

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

M. W. MUIGAI

JUDGE

