



**In re END (Child) (Adoption Cause E087 of 2022)  
[2023] KEHC 2657 (KLR) (Family) (10 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 2657 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E087 OF 2022  
PM NYAUNDI, J  
MARCH 10, 2023**

**IN THE MATTER OF**

**LVM ..... 1<sup>ST</sup> APPLICANT  
NJ ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The applicants LVM and NJ vide originating summons dated 31<sup>st</sup> May of 2022 have made an application for the adoption of Baby END the minor herein. The applicants have been married since 6<sup>th</sup> April of 2002 and have attached copy of marriage certificate serial number 90XXX6. They wish to adopt the baby so as to expand their family. They do not have children of their own. The 1<sup>st</sup> applicant is a landscaper currently employed by [Particulars Withheld] limited while the 2<sup>nd</sup> applicant is a nurse's Assistant and care giver, but lost her job due to Covid- 19 pandemic. They also do subsistence and small –scale commercial farming. They have a home at Kwarara Road in Karen. They aver that they have means to provide for the child's basic needs.
2. The minor was found abandoned on January 24, 2014 at Ol-kalou in Nyandarau County. The child was rescued by a good Samaritan named Edward Gecheru who subsequently reported to Ol-kalou police station and was entered in their records vide O.B.No 33/24/1/2017. The child was admitted at Ol-kalou Hospital at 24<sup>th</sup> January of 2017 to February 1, 2017 for accommodation. The child was committed to New Life Home Trust, Nyeri by the Children's Court at Nyahururu vide Care and protection 136 of 2017.
3. Prior to the hearing of the adoption Application, Change Trust undertook a social inquiry and home study and prepared a report dated 2<sup>nd</sup> of February of 2018. In the report they found the Applicants to be suitable parents and issued a certificate serial number 00233 declaring the child free for adoption. The court appointed a Guardian Ad litem PAO.



4. An officer of the department of children services Ms. Odundo, conducted home visits and prepared a report dated February 22, 2023. The report established that the child was found abandoned and has not been claimed by any known relative. That the couple has the means to cater for the child's needs. That the child was placed with the applicants for bonding on October 5, 2018 and has bonded well within the family. The report finds that the applicant meets the legal requirements and recommends that she be allowed to adopt the child. The report was submitted in court by an officer at the Department of children services.
5. The Guardian Ad litem PAO filed a report dated 14<sup>th</sup> January 2023, wherein she confirms that she has visited and investigated the applicants and recommends the couple to adopt the child.
6. Peris W Kahera a representative from Change Trust Adoption Society confirmed that they placed the child with applicant and after visiting they are satisfied that the two have bonded well and the minor is well integrated into the family of the applicant. She presented report dated 13 September 2017 confirming that the child is available for adoption.
7. The proposed legal Guardians SNK and MNG also attended court and confirmed they are willing to take up the role of legal guardian.
8. After carefully assessing the records herein, I am satisfied that the Applicant has fulfilled all the legal requirements relating to the child's adoption. section 186 of the *Children Act*, 2022 provides.
  1. The court make an adoption order on application by –
    - a. A sole applicant: or
    - b. Two spouse jointly.
  2. The court shall not make adoption order in any case unless-
    - a. The applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
    - b. The applicant, or both of the applicants in a joint application, is more than the child.
  - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father or relative of the child.
9. The applicants are aged 53 years and 54 years respectively.
10. article 53 of the *Constitution* of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:  
A child's Best interests are of paramount importance in every matter concerning the child.
11. This principle is restated in under Section 8 of the *Children Act*, 2022 which provides  
Best interests of the child.
  - (1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies-
    - a. The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.

Section 194(1) (c) of the Act also requires that if the adoption order is made



The order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child:

12. In view of the foregoing the court is of the considered view that it is in the child's best interest to be adopted by the applicants. Accordingly, I allow the prayers sought in the Originating Summons dated May 31, 2022 and order as follows:
  - i. The Applicants LVM and NJ be allowed to adopt Baby END.
  - ii. The child to be known as PNL.
  - iii. The minor's date of Birth August 8, 2015.
  - iv. SNK and MNG is hereby appointed as legal guardian of the child.
  - v. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children.
  - vi. The Guardian Ad Litem is discharged.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 10<sup>TH</sup> DAY of MARCH 2023.**

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**P M NYAUNDI**

**JUDGE**

**In the presence of: Ms. Nyangweso for Applicants**

**Karani Court Assistant**

