



REPUBLIC OF KENYA



**In re Baby GI aka BI (Adoption Cause E014 of 2023)  
[2023] KEHC 3873 (KLR) (Family) (20 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3873 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**ADOPTION CAUSE E014 OF 2023**

**DKN MAGARE, J**

**APRIL 20, 2023**

**IN THE MATTER OF THE CHILDREN ACT, 2022**

**IN THE MATTER OF BABY GI AKA BI**

**IN THE MATTER OF**

**CNM ..... APPLICANT**

**JUDGMENT**

1. Vide an Order issued on February 16, 2023. The guardian *ad litem* was appointed, that is Faith Wambui Mwangi by Justice Patricia Nyawi SC. The matter was set for hearing on May 25, 2023. However, due to the recent RRI, the mater was placed before me April 14, 2023. I Heard the witnesses on April 14, 2023 and referred the Judgment to today.
2. The applicants indicated that they are aware of the consequences of adoption, which by its nature is irreversible. The child has same rights as a biological child. The proposed Legal Guardians testified and confirmed that they are ready, willing and able to step in case of any eventuality.
3. The change Trust Adoption Society confirmed that they approved the applicants on May 21, 21. The child was declared free for adoption on February 15, 2022. They recommend the adoption. The Principal Children Officer at Milimani Carol Olilo, testified that they recommend the adoption.
4. I have seen the report dated April 1, 2023. The applicant is said to be 46 years old, Kenyan born on August 21, 1976. Her background and financial prowess is adequate. The minor herein was abandoned along Ngong Road and the matter reported at Riruta Police station. There has been no claim over the child.
5. The child was placed under the applicants' foster care from October 21, 2022. I have perused certificate No xxxx freeing the minor for adoption on November 11, 2022 and I am satisfied with the same.



6. I have perused the Report by the Guardian ad litem. I note that the same was favourable. I find and hold that the applicant has met the requirements of Section 183 and 184 of the Children's Act. Section 194 provides as doth; -

“Pre-requisites for Adoption.

- 1 A person shall not commence any arrangements for the adoption of a child unless—
    - a the Council, in accordance with the rules, has declared the child free for adoption; and
    - b the child has attained the age of six weeks.
  - 2 A person, including a parent, guardian or adoption society, shall not, prior to the making of an adoption order, entrust a child to the care, possession or control of any person not qualified to adopt a child in accordance with this Act.
  - 3 An applicant shall not preselect a prospective adoptive child except—
    - a in the case of kinship adoption;
    - b Where the applicant is a foster parent seeking to adopt a fostered child under the applicant's care.
  - 4 The Secretary shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings.
  - 5 Any person who contravenes subsections (1) or (2) of this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one million shillings, or to both.
7. The Applicant is not disqualified by dint of section 186(6) of the children's act from adopting. The section provides as doth: -
- The Court shall not make an adoption order in favour of an Applicant or joint Applicants if the Applicant or joint Applicants, or any of them—
- a is of unsound mind within the meaning of the Mental Health Act (Cap 248);
  - b is incapable of exercising proper care and guardianship of a child;
  - c has been convicted by a Court of competent jurisdiction for any of the offences specified in the Third Schedule or similar offences;
  - d in the case of joint Applicants, if the Applicants are not married to each other;
  - e is a sole male Applicant except where the Applicant is a biological relative of the child; or
  - f is a foreign Applicant except where the Applicant is a biological relative of the child.
8. I therefore allow the originating summons in the following terms: -
- a. CNM be allowed to adopt the baby GIwho will be known as AMB.
  - b. JKkk and CKM be appointed as the Legal guardian of the minor
  - c. The Registrar General to enter this adoption in the Register of adoption.



- d. The minor be presumed to have been born in Kenya.
- e. The Director General Immigration is authorized to issue the minor with a passport.
- f. The date of birth is declared to be January 10, 2021 in Ngong, Kenya.
- g. The Registrar of births and deaths to issue the child with a birth certificate.
- h. The guardian ad litem is discharged.
- i. The file is sealed and closed.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 20<sup>TH</sup> DAY OF APRIL, 2023.  
JUDGMENT DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**DENNIS KIZITO MAGARE**

**JUDGE**

**In the presence of:**

**MS AMBAKA for the Applicant**

**Court Assistant - Firdaus**

