



REPUBLIC OF KENYA



**In re H alias HM (Minor) (Adoption Cause E046 of 2022)
[2023] KEHC 3278 (KLR) (Family) (13 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3278 (KLR)

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

ADOPTION CAUSE E046 OF 2022

EKO OGOLA, J

APRIL 13, 2023

JUDGMENT

1. Before this Court is the Originating Summons dated April 2, 2022. The Applicants DKM and SWR are seeking to be authorized to adopt Baby H alias HM hereinafter referred to as the child and upon adoption, the child is to be known as HWK. LJK was appointed as the child's guardian ad litem. The Applicants pray for GWM to be appointed as the child's legal guardian upon granting of the adoption orders.
2. The Applicants are a married couple and are both Kenyan citizens as evidenced by the copies of their Identification cards. The 1st Applicant is a businessman, and the 2nd Applicant is an executive secretary. They attached to their summons copies of their bank statement as evidence that they are financially capable of providing for the child. They are also in good health and do not have any previous criminal records.
3. On record, there is a report from a social worker from the Directorate of Children's Services. It is stated that the child was abandoned by her biological mother at Githurai 45 on September 4, 2017 having been found by a good Samaritan. The matter was then reported to Githurai Kimbo Police Station under OB XXXX The child was then admitted to New Life Children's Home on September 6, 2022. The child was declared free for adoption on May 21, 2021 by Buckner Adoption Society vide a freeing certificate no xxxx. On May 21, 2021, and the child was placed with the Applicants.
4. The child was abandoned when she was approximately one year old. Article 14 of the Constitution deals with the question of Citizenship. Article 14(4) provides that: -

' (4) A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.'
5. I, therefore, declare Baby HM, a citizen of Kenya by birth.



6. Furthermore, in deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 4(2) of the Children Act 2001 stipulates as follows:-

' (2) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration'

7. From the reports filed by the Directorate of Children's Services, the Adoption Society and the guardian ad litem, the child is said to have bonded well with the prospective adoptive parents. Therefore, this adoption gives the child an opportunity to be raised in a stable and loving home environment. Accordingly, I do allow the Originating Summons dated April 2, 2022 and make the following orders:-

- a) The Applicants, DKM and SWR are authorized to adopt the child known as Baby H alias HM.
- b) Upon adoption, the child shall be known as HWK.
- c) The child is declared to be a Kenyan Citizen by birth and is entitled to all rights and benefits under the Constitution of Kenya and all applicable laws.
- d) The guardian ad litem, LJK, is hereby discharged.
- e) GWM is hereby appointed as the legal guardian of the child.
- f) The Registrar General is directed to make the relevant entry in the Adopted Children Register.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 13TH DAY OF APRIL 2023

E.K. OGOLA

JUDGE

In the presence of:

Ms. Kemunto for the Applicants

Gisiele Muthoni Court Assistant.

