



**CLN (Adoption Cause E193 of 2022)
[2023] KEHC 17419 (KLR) (Family) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17419 (KLR)

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

FAMILY

ADOPTION CAUSE E193 OF 2022

RL KORIR, J

MAY 9, 2023

IN THE MATTER OF ADOPTION BABY ZMB

AND

IN THE MATTER OF AN APPLICATION FOR

ADOPTION

IN THE MATTER OF

CLN APPLICANT

JUDGMENT

1. By Originating Summons dated November 4, 2022 now before me Applicant seeks the following orders:-
 - i. That the Applicant, CLN, be allowed to adopt the child currently identified as Baby ZMB
 - ii. That henceforth, the child be renamed as KKM.
 - iii. That the child's date of birth be declared to be June 30, 2021 at Muranga County.
 - iv. That the child be presumed to be a Kenyan Citizen by birth.
 - v. That LWM and AMO be appointed as joint Legal Guardians of the child; in the event that the Application herein is incapacitated or in any way unable to discharge her parental obligations.
 - vi. That the guardian ad litem be discharged
2. The Application is supported by the Statement and sworn Affidavit of the Applicant both dated November 4, 2022. On record also are all the requisite reports which the Applicant's Counsel urged the court to consider.



3. The Application was canvassed orally before me on April 12, 2023. The Applicant CLN (W1) testified that she was a single mother of an adopted child and wished to adopt a 2nd child to expand her family. The Applicants testimony was backed by her statement aforestated. Annexed to her Statement are details of the earlier adoption orders as well as the proof of the Applicant’s means. She is a consultant earning approximately Kshs 300,000/= and therefore is able to maintain another child.
4. GWK (W2) the appointed Guardian Ad Litem told the court that she had undertaken home visits and filed her report dated February 27, 2023. I have perused the report and it positively recommends the Applicant as the child was found to be in a suitable environment and having bonded well with the family.
5. Lilian Mbuthia (W3) and Adrew Matoke Ogeto (W4) stated their willingness be legal guardians. I have perused their joint affidavit of consent dated September 12, 2022 and I am satisfied that they qualify to be so appointed.
6. Mary Atati (W5) drew the attention of the court to have Report dated February 3, 2023 which is also counter signed by the Director Children’s Services. I have perused the Report. It clearly recommends the adoption and confirms the suitability of the Applicant.
7. For the court to grant the orders it must be satisfied that the adoption will serve the best interest of the child.
8. The governing law in this Application is the Constitution and the Children’s Act 2022. Article 53 (2) of the Constitution which provides: -
A Child’s best interest are of paramount importance in every matter concerning the child.
9. Section 8(1) of the Children Act 2022 provides: -
“(8). (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 be the primary consideration;” (own emphasis)
10. Section 184(1) of the Children’s Act 2022 provides as follows: -
“(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.”
11. I have considered the history of the child as stated in the various reports resting with the Director, Children Services Report aforestated. The child is presumed to have been born on June 30, 2021 at Mianyani Sub-Location in Muranga County and abandoned near a stream. He was rescued by the area Chief after a report was made by a good Samaritan. The child was later placed on New Life Home Trust for care and protection. No one claimed him leading to the current adoption proceedings. The child was declared free for adoption by Kenya Children’s Home Adoption Society in their report and Certificate serial number 839 dated April 20, 2022.
12. Having considered all the above, it is my finding that the adoption will serve the best interest of the child. I therefore have no hesitation in granting the following orders :-



- i. That the Applicant, CLN, is authorized to adopt the child currently identified as Baby ZMB henceforth to be renamed KKM.
 - ii. That the child's date of birth be declared to be June 30, 2021 at Muranga County.
 - iii. That the child is presumed to be a Kenyan Citizen by birth.
 - iv. The Registrar General is hereby directed to make the appropriate entries in the Adopted Children Register.
 - v. That LWM and AMO be and are hereby appointed as joint Legal Guardians of the child in the event that the adoptive mother is incapacitated or in any way unable to discharge her parental obligations.
 - vi. That the guardian ad litem is hereby discharged
- Orders accordingly.

JUDGEMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 9TH DAY OF MAY, 2023

.....

R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of the applicant, Ms Kimenyi for the applicant and Siele (Court Assistant)

