



REPUBLIC OF KENYA



**In re Baby BN (Adoption Cause E186 of 2022)
[2023] KEHC 17469 (KLR) (Family) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17469 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E186 OF 2022
RL KORIR, J
MAY 9, 2023
IN THE MATTER OF BABY BN
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION**

IN THE MATTER OF

AMK APPLICANT

JUDGMENT

1. By Originating Summons dated 30th September, 2022, filed through Kimenyi Co. Advocates and the Applicant sought orders: -
 - (i) That the Applicant, AMK, be allowed to adopt the child currently identified as Baby BN.
 - (ii) That henceforth, the child be renamed as LAWK.
 - (iii) That the child's date and place of birth be declared to be 26th December, 2020 in Nairobi County.
 - (iv) That the child be presumed to be a Kenyan Citizen by birth; and consequently, entitled to all the rights and benefits in respect thereof.
 - (v) That MWK and GWK be appointed as Joint Legal Guardians of the child, in the event that the Applicant herein is incapacitated or in any way unable to discharge her parental obligations.
 - (vi) That the guardian ad litem be discharged.
 - (vii) That the Registrar General be directed to make the appropriate entries in the Adopted Children's Register.



- (viii) That this Court do issue such further orders as are in the interest of justice.
2. The Summons were supported by the Statement of the Applicant AMK dated 30th September, 2022 and her sworn affidavit of even date.
 3. The Application was canvassed orally before me on the court's virtual platform. AM(W1) told the court on oath that she was an accountant by profession who worked and lived in Nairobi. That she was 48 years, single and without children. That she desired to adopt a child and was fully aware of the attendant rights and responsibilities. The court observed that the child played around the Applicant and appeared joyful.
 4. Ms. MA(W2), Ms. LK(W3) and IO (W3) all confirmed that they had authored their respective reports on record which gave a positive recommendation for the Applicant to be authorized to adopt the minor.

Analysis And Determination

5. 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.
6. 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)
7. 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.”
8. The twin issues for the court to determine is whether the Applicant merited the orders and whether the adoption would serve the best interest of the minor.
9. I have examined the Statutory reports on record and considered the oral evidence.
10. With respect to the Applicant, she meets the criteria set out in law. She is 48 years and has a good job with a good pay and so will be able to cater for the child. She professes the Christian faith and undertakes to raise the minor in that faith. She has, in her Statement, professed her love for children and demonstrated how she cares for her nephews and nieces. The Guardian Ad Litem's report dated 13th January,2023 filed by LK described a warm home environment where the child had comfortably settled in.
11. The Directorate Children's Services in their report dated 19th December,2022 stated that the child was free for adoption and had bonded well with the Applicant who had during the supervision period taken good care of the child. The report recommended the adoption.



12. With respect to the child, Buckner Kenya Adoption Services, a registered Adoption Society stated in its report dated 27th February, 2023 that the Applicant was suitable and that the child was free for adoption.

It issued the requisite certificate serial no. 0508 dated 18th February, 2022.

13. I am satisfied based on my consideration of the reports and my examination of the witnesses that the Application is merited. I have no doubt that the adoption shall serve the best interest of the minor.

14. I therefore grant the following orders: -

- i. That the Applicant, AMK, is authorized to adopt the child currently identified as Baby BN henceforth, to be renamed LAWK.
- ii. That the child's date and place of birth is declared to be 26th December, 2020 in Nairobi County.
- iii. That the child is presumed to be a Kenyan Citizen by birth; and consequently, entitled to all the rights and benefits in respect thereof.
- iv. That MWK and GWK are hereby appointed as Joint Legal Guardians of the child, in the event that the Applicant herein is incapacitated or in any way unable to discharge her parental obligations.
- v. That the guardian *ad litem* be and is hereby discharged.
- vi. That the Registrar General be directed to make the appropriate entries in the Adopted Children's Register.

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

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R. LAGAT-KORIR

JUDGE

Judgment delivered in the presence of the Applicant, Ms. Kimenyi for Applicant and Siele (Court Assistant)

