



REPUBLIC OF KENYA



**In re baby JR alias JK (Child) (Adoption Cause E185 of 2022)
[2023] KEHC 17468 (KLR) (Civ) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17468 (KLR)

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

CIVIL

ADOPTION CAUSE E185 OF 2022

RL KORIR, J

MAY 9, 2023

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BABY JR ALIAS JK (THE CHILD)

IN THE MATTER OF

GNC APPLICANT

JUDGMENT

1. The Originating Summons before court dated 10th October, 2022 seeks orders that: -
 - i. That NWW of P.O. Box xxx Githunguri, in the Republic of Kenya be appointed Guardian ad Litem. (Spent)
 - ii. That the Director Children's Department, Ministry of Labour, Social Security and Services investigate the Applicants' fitness to adopt and file a report. (Spent)
 - iii. That the Applicant be authorized to adopt babyJK aliasJK to be known as IT.
 - iv. That the child be presumed at Kenyan Citizen by birth.
 - v. That the child's date of birth be 7th April, 2020 and the place of birth be [Particulars Withheld].
 - vi. That the Registrar General be directed to enter the adoption in the Adopted Children Register.
 - vii. That the Director Immigration be authorized to issue the child with a Kenyan passport.
2. The Application is supported by the statement and Affidavit of the Applicant dated 10th October, 2022.
3. On record are the requisite statutory reports which Ms Kimenyi, Counsel for the Applicant urged the court to consider.



4. This court heard the oral testimony of the Applicant GNC (W1) who stated that she was 41 years old and had 2 other adopted children aged 18 years and 4 and wished to increase her family. She stated further that the two children had bonded with the minor and consented to the adoption.
5. The appointed Guardian Ad Litem NWW (W2) told the court that she had recommended the adoption. Her report which she wished the court to rely on is dated 1st December, 2022.

Analysis and Determination

6. The governing law in this Application is the Constitution and the Children's Act 2022. Article 53 (2) of *the Constitution* provides: -
A Child's best interest are of paramount importance in every matter concerning the child.
7. 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)
8. 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.”
9. The minor was born to a minor mother who suffers severe mental disability. The mother was said to have been defiled by her father leading to the birth of the minor. He was given up for adoption as the minor mother who was rescued and committed to a Rescue Centre lacked ability to bring up the child. Due to their cultural beliefs, the extended family was also reluctant to bring up a child born out of incest.
10. The minor was declared free for adoption by the Change Trust Adoption Society vide their Report and Certificate Serial No. xxxx dated 3rd December, 2021.
11. The Guardian Ad Litem's report dated 1st December, 2022 prepared by NWW as per the directions of the court was positive. The Guardian Ad Litem recommended the adoption after three home visits and close interaction with the minor and the prospective adoptive mother.
12. The prospective legal guardians have filed their Consent dated 12th October, 2022.
13. I have considered the report by the Assistant Director Children Services dated 8th December, 2022 it details the unique circumstances of the minor and recommends the adoption.
14. The Applicant has demonstrated that she has the financial capability to raise the infant. She has also demonstrated her love for children having adopted two others before and one of whom is the sibling of the present minor. I find the Application to be in the best interest of the minor and the Applicant to be a fit adoptive parent.



15. Consequently, I grant the following orders: -

- iii. The Applicant GNC is authorized to adopt babyJR aliasJK to be known as IT.
- iv. That the child be presumed at Kenyan Citizen by birth and his date of birth be stated as 7th April, 2020 and the place of birth be [Particulars Withheld].
- v. That the Registrar General is directed to enter the adoption in the Adopted Children Register.
- vi. The Director Immigration is authorized to issue the child with a Kenyan passport, subject to the usual procedures.
- vii. The Guardian Ad Litem is hereby discharged and TNC and JKG are appointed legal guardians to the minor.

Orders accordingly

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

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R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of the applicant, Ms Wangui for the applicant and Siele (court assistant)

