



**In re GB (Baby) (Adoption Cause E069 of 2022)
[2023] KEHC 17421 (KLR) (Family) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17421 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E069 OF 2022
RL KORIR, J
MAY 9, 2023**

IN THE MATTER OF

**EGO 1ST APPLICANT
LAO 2ND APPLICANT**

JUDGMENT

1. Before this court is the Exparte Chamber Summons dated April 27, 2022 by which the Applicants seek the following orders: -
 - I. That the Applicants EGO and LAO be allowed to adopt the child currently identified as Baby GB.
 - II. That henceforth, the child be renamed AKG.
 - III. That the child’s date and place of birth be declared to be December 7, 2020 at Nanyuki 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 the consent of the child’s biological parents/guardians be dispensed with.
 - VI. That JNO and RAO be appointed as legal guardians of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - VII. That the guardian ad litem be discharged.
 - VIII. That the Registrar General be directed to make the appropriate entries in the Adopted Children’s Register.



- IX. That this court do issue such further orders as are in the interest of justice.
2. The Application is supported by the joint statement of the Applicants and their sworn affidavit dated April 27, 2022.
 3. The Applicants, EGO LAO are husband and wife having been married on August 14, 2013 as evidenced by a copy of their marriage certificate exhibited.
 4. In oral testimony before me, the 1st Applicant submitted that he was married to the 2nd Applicant and that he worked in the manufacturing sector. The 2nd Applicant testified that she was a Public Health Specialist and that she was aged 43 years. She further submitted that she understood that the process of adoption was irreversible and that they would take full care of the baby.
 5. The Guardian Ad Litem, CAO confirmed her report and further stated that her recommendation that the couple fit the bill for adoptive parents. That the baby was growing in a favorable environment where his needs, both spiritual and social were being catered for and where his rights as a child were well protected.
 6. Ms Atati of the Directorate of Child Services and Ms. Irene Ogutu of Buckner Kenya Adoption Services told the court that they had made an assessment and placed the minor with the family and recommended the adoption.

Analysis and Determination

7. 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.
8. 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)
9. 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.”
10. The duty of this court therefore is to secure the best interest of the child by determining whether the Applicants were suitable adoptive parents.
11. The child baby Gervis Biden is estimated to have been born on December 7, 2020 and abandoned. On March 2, 2021, baby Gervis Biden was committed to Neema House Infant Baby Rescue Centre. Buckner Kenya Adoption Society declared the child free for adoption vide their report dated June 8, 2022 and Certificate Serial No. 0503 dated October 27, 2021.



12. I have considered the Report by the Assistant Director, Nairobi County Children Services dated January 30, 2023 and countersigned by Mary Atati, the Assistant Director Children Services.
13. The Report confirms that the child was free for adoption and has bonded well with the Applicants who have cared for him. That the Applicants have generally provided a good environment for the child to grow and flourish. The Report also stated that the Applicants earn enough money to take care of themselves and the child and that they live in their own house in Njiru where they lived with the child and another adopted daughter.
14. I find from the above and from my observation of the interaction of the child with the Applicants on the court's virtual platform, that they have bonded well. It is my conclusion also that they were financially able to care for the child.
15. I have considered the Report filed by the Guardian Ad Litem CAA dated January 24, 2023 as well as the consent of the proposed Guardians dated June 19, 2021.
16. Article 14 of the Constitution of Kenya deals with the issue of citizenship. Article 14(4) provides as follows:-

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.
17. This is a child who was abandoned beside a tree near MCH block at Nanyuki Teaching and Referral Hospital by a casual worker. I therefore declare the child to be a citizen of Kenya by birth.
18. I am satisfied that the best interest of the minor will be served in allowing this Application. I therefore grant the orders that: -
 - i. The Applicants EGO and LAO are authorized to adopt the child known as Baby GB.
 - ii. Upon adoption the child shall be known as AKG and shall be presumed to have been born on December 7, 2020 in Nanyuki County.
 - iii. The child is declared to be a Kenyan citizen by birth and is entitled to all the rights and benefits pursuant thereto.
 - iv. The Registrar – General is directed to make relevant entry in the Adopted Children's Register.
 - v. Jectone Ndara Oyugi and Roda Akech okeyo are hereby appointed the Legal Guardians for the child.
 - vi. The Guardian *Ad Litem* is hereby discharged.

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

.....

R. LAGAT-KORIR

JUDGE

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

