



REPUBLIC OF KENYA



**In re KW (Child) (Adoption Cause E107 of 2022)
[2023] KEHC 17465 (KLR) (Family) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17465 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E107 OF 2022
RL KORIR, J
MAY 9, 2023**

IN THE MATTER OF

**AB 1ST APPLICANT
MWR 2ND APPLICANT**

JUDGMENT

1. Before the Court is an Amended Originating Summons dated February 15, 2023 seeking the following orders:-
 - i. That the Applicants AB and MWR be authorized to adopt the Child currently known as KW.
 - ii. That the child to be known as KWB.
 - iii. That the guardian ad litem be discharged and AWR (the applicant, MWR sister) be appointed as the child's Legal Guardian in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - iv. That the Registrar General be directed to make the appropriate entries in the Adopted Children Register and issue a Certificate to that effect.
 - v. That the court be pleased to make any further orders it deems necessary.
2. The Application is supported by the Statement of the Applicants sworn on September 12, 2022.
3. The Applicants AB and MWR are husband and wife having been married on December 1, 2016 as evidenced by a copy of their marriage certificate exhibited.
4. In sworn oral testimony before me, MWR(W1) testified that the minor was her biological daughter aged 11 while the 1st Applicant was her husband of 7 years. AB (W2) testified that the minor was his wife's biological daughter and they wished to adopt to formalize family. He said that he had four adult



children who were all aware and supportive of his application to adopt the minor for whom he has been legal guardian since 2019.

5. The child K (W3) told the court that they lived together as a family and that the 1st Applicant whom she called 'dad' pays her fees. Joshua Mwalimu(W4) stated that he represented little Angels Network the Adoption Society which had recommended the adoption. The Guardian *Ad Litem* was L (W4) who told the court that she had filed her report dated March 30,2023 having been appointed by the court on March 22, 2023.
6. The 1st Applicant is a British citizen. However, this is a Kinship adoption as the 2nd Applicant is the biological mother of the child. The biological father of the child has not been in the picture and his name does not appear in her birth certificate issued on May 5, 2017 which shows that the child was born on November 16, 2022.
7. As earlier stated, this court interviewed the minor now aged 11. She understood the adoption process and confirmed that she was happy with the 1st Applicant as her dad.
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. In this case, I find that the legal requirements have been met. The little Angels Network, a registered Society declared the child free for adoption and issued Certificate Serial No 0022. The Guardian ad litem returned a positive report and the Secretary, Children's Services recommended the adoption.

12. I am therefore satisfied that the Application is merited. I grant the following orders: -

- i. That the Applicants AB and MWR be authorized to adopt the Child currently known as KW.
- ii. That the child to be known as KWB.
- iii. That the guardian ad litem be and is hereby discharged and AWR is hereby appointed as the child's Legal Guardian in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.



- iv. That the Registrar General be directed to make the appropriate entries in the Adopted Children Register and issue a Certificate to that effect.

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 Applicants, Ms Nderu for the Applicants and Siele (Court Assistant)

