



**In re Baby AA (Child) (Adoption Cause E223 of 2022)
[2023] KEHC 20275 (KLR) (Family) (30 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 20275 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E223 OF 2022
PM NYAUNDI, J
JUNE 30, 2023**

IN THE MATTER OF

SGM APPLICANT

JUDGMENT

1. The Applicant, SGM vide Originating Summons dated November 2, 2022 has made an application for the adoption of Baby AA the child herein. The applicant is single. she wishes to adopt the baby with the intention to grow her family.
2. The matter proceeded for hearing via viva voce evidence on the Teams virtual platform on the 25th of May 2023.
3. The Applicant is Kenyan Citizen and of the Christian faith. She avers that she has the financial means and capability to take care of the Child. The applicant is an Advocate. She has had custody of the child for a period of 2 years. She resides in [Particulars Withheld] estate along Langata. She fully understands the consequences of an adoption order.
4. The child was found abandoned at [Particulars Withheld] along Haile Selassie Avenue on December 22, 2019. Good samaritans ESM and MN who were xxxx in the said church found the child.
5. The matter of the abandonment was reported at Parliament Police Station, where the incident was booked under OB NO. xxxxx. The child was later transferred to [Particulars Withheld} Home. The child was committed to the Home by order of the Nairobi Children’s Court vide Protection and Care Case No. 251 of 2020.
6. Prior to the hearing of the adoption application, Little Angels Network Adoption Society issued a certificate serial No. xxxxxxx declaring the child free for adoption. On 19th January 2023, the Court appointed a Guardian Ad litem JNM.



7. The Guardian Ad Litem, JNM was present in Court and presented her report dated April 21, 2023. She confirmed that she visited the Applicants and the Child at their home and observed that they have bonded well, and the child is well taken care of. She has also bonded well with the extended family. She recommends that the applicants be allowed to adopt the Baby.
8. An officer of the Department of Children Services, MA prepared a report dated March 23, 2023. The report established that the child was abandoned near [Particulars Withheld] church by good samaritans ESM and MN and the matter was reported to Parliament police station under OB Number xxxx.
9. The Report further documents that vide letter dated March 9, 2021; the Police confirmed that neither the mother nor other relatives of the child had come back to claim the child. For this reason, the Department of Children Services confirms the child is free for adoption. The Child was placed with the applicant on April 24, 2021.
10. The proposed Legal Guardian PNM attended court and confirmed she is willing to take up the role of legal guardian. She is the applicant's sister. She understands what the role entails.
11. After carefully assessing the records herein, I am satisfied that the applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the [Children Act](#), 2022 provides.

The Court may make an adoption order on application by—

- a) a sole applicant; or
 - (b) two spouses jointly.
- (2) The Court shall not make an adoption order in any case unless—
- (a) the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - (b) the applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
- (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.

12. The Applicant is 47 years.
13. Article 53 of the [Constitution](#) of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

A Child's Best interests are of paramount importance in every matter concerning the child

14. This principle is restated Under section 8 of the [Children Act](#) , 2022 which provides

Best interests of the child.

- (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;



- (b) the best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.

Section 194 (1) (c) of the Act also requires that if the adoption order is made the order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;

15. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the Applicants. Accordingly, I allow the prayers sought in the Originating Summons dated November 2, 2022 and order as follows:
- i. The Applicants SGM be allowed to adopt Baby AA
 - ii. The Child to be known as NSM
 - iii. The Child be presumed to be a Kenyan citizen by birth.
 - iv. The date and place of birth of the Child be presumed to be December 19, 2019 in Nairobi.
 - v. PNM is hereby appointed as legal guardian of Child
 - vi. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children.
 - vii. The Director Immigration is authorized to issue the child with a Kenyan passport
 - viii. The Guardian Ad litem is discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 30th DAY OF JUNE, 2023.

P M NYAUNDI

HIGH COURT JUDGE

In the presence of:

Njenga for the Applicants

Court Assistant Karani

