



**In re Baby J alias EK (Child) (Adoption Cause 11 of 2018)
[2023] KEHC 21409 (KLR) (19 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 21409 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
ADOPTION CAUSE 11 OF 2018
JK SERGON, J
JUNE 19, 2023**

IN THE MATTER OF

**CCL 1ST APPLICANT
WKL 2ND APPLICANT**

RULING

1. Before the court is the originating summons dated September 27, 2018 by which the applicants seek the following orders;
 - i. Spent
 - ii. Spent
 - iii. That the Applicants; CCL and WKL be authorized to adopt the male child currently identified and known as baby j alias EK.
 - iv. That JKL and HCL both of Post Office Box No xxx, Chebunyo who are the biological brother and sister-in law to the 1st Applicant herein be appointed guardians to take care of the interests of the minor should any misfortune befall the Applicant.
 - v. That the child be renamed EK.
 - vi. That the child be declared a Kenyan citizen.
 - vii. That the Registrar General does make appropriate entries in the Adopted Children's Register.
 - viii. That the court does issue such orders and directions as are in the interest of justice.
2. The application was supported by an affidavit sworn by WKL a co-applicant and on behalf of CCL and statement in support of the application for an adoption order of even date sworn by both Applicants.



3. The Applicants are approximately 47 and 59 years respectively who solemnized their marriage on January 17, 1982 under the African Christian Marriage Law and as such have been legally married since then.
4. The Applicants have not been blessed with any issue within their union and as such are desirous of adopting one child, a boy.
5. The Applicants own a piece of land approximately 3 acres where their homestead is situated and where they have planted tea crop and other crops, they further make an average monthly income of Kshs 10,000/= from farm and small-scale business hence they have the financial means and capability to take care of the child
6. The Applicants in support of her application for adoption filed certificates of good conduct, they have no criminal records.
7. The Applicants deponed that they do not have any ailments that would hamper their parenting of the child herein, that they are currently physically and emotionally fit and filed a medical report in support of their application.
8. The Applicants applied for adoption on March 3, 2015 through the Kenya Children's Homes, an Adoption Society incorporated under the Children Act, pursuant to the said application, child placement was considered and approved by the Adoption Society and subsequently vide a care and placement agreement dated September 30, 2015 the child was committed to their care by the African Gospel Church Baby Center upon approval by the Kenya Children's Homes. The Applicants took physical custody of the child and assumed parental responsibility to the date of this instant application. The Applicants have faithfully abided by the terms and conditions of the care agreement.
9. The child was presumably born on June 3, 2014 and was found abandoned on June 4, 2014 in Pipeline at the plot of one Mr by a tenant who alerted the caretaker of the plot one *** of mobile number **, that the baby was put in a polythene bag and was hanged on the stair's grills of the third floor of the building.
10. The caretaker quickly alerted the security guards who in turn informed the XXX Police Station after which the caretaker took the baby to the police station and the matter was recorded at the XXX Police Station vide OB ***.
11. The officers sought placement of the child at TB House for care and protection, a vacancy was availed and the child was admitted at TB House on June 5, 2014 and on August 20, 2014, the child was committed to the care and protection of TB House through the Children's court at Nairobi vide care and protection number **. The child was found to be in good health, his Serology status was negative and the home ensured that the child's immunization schedule was followed as per the Kenya Expanded Program Guidelines on Immunization.
12. The Police issued a final letter dated January 7, 2015` and confirmed that the parents of the child could not be traced.
13. The child was declared free for adoption by the Kenya Children's Homes Adoption Society Case Committee on its sitting of January 21, 2015 vide a Freeing Certificate Serial No**** issued pursuant to section 156 (1) of the Children's Act 2001.
14. I have considered the originating summons filed herein dated September 27, 2018 and the supporting documents filed in support of the application for adoption. I find that the applicants are suitable



persons to take charge of the child and safeguard his interests and that the adoption herein will serve the best interest of the child.

15. In deciding upon any matter involving a child, courts are obliged to give priority to the best interests of the said child, section 8 (1) of the *Children Act* No 29 of 2022 provides as follows;

' 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;'

16. I hereby allow the originating summons dated September 27, 2018 in the following terms;

- i. That the applicants herein be and are hereby authorized to adopt the child.
- ii. That JKL and HCL be and are hereby appointed the Legal Guardians of the child to take care of the interests of the minor should any misfortune befall the Applicant.
- iii. That the Guardian Ad Litem be and is hereby discharged.
- iv. That the child shall henceforth be called EK.
- v. That the child is hereby declared a Kenyan citizen.
- vi. That the Registrar General be and is hereby directed to register this adoption order or decision in the Adopted Children's Register.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF JUNE, 2023.

J.K. SERGON

JUDGE

In the presence of:

Miss Sang holding brief for Koech for the Applicant

