



**In re GMI (Child) (Adoption Cause E019 of 2023)
[2023] KEHC 19741 (KLR) (Family) (19 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 19741 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E019 OF 2023
MA ODERO, J
JUNE 19, 2023
IN THE MATTER OF CHILDREN’S ACT NO 8 OF 2001
AND
IN THE MATTER OF ADOPTION OF BABY GMI (THE CHILD)**

IN THE MATTER OF

WMW APPLICANT

JUDGMENT

1. Before this court is the Originating Summons dated February 13, 2023 by which the Applicant WMW seeks the following orders:-
 - “1. That the Applicant be authorized to adopt baby GMI a child who is to be known as GMI and the Registrar General be directed to enter this adoption into the register of Adoptions.
 2. That baby AOL and LAK be appointed as the Legal Guardians of the child.
 3. That the child be presumed to be born in Kenya.
2. The Application was supported by the Affidavit of even date sworn by the Applicant. The matter was canvassed by way of vive voce evidence on the virtual platform.
3. The Applicant is a single woman who has never been married. She has a three (3) year old daughter. The Applicant wishes to adopt the subject child who is her niece being the daughter of the Applicant’s twin sister.



4. The Applicant confirms that she understands the legal implications of an adoption order. She undertakes to accord to the subject child all rights due to a biological child including the right of inheritance.

Analysis and Determination

5. I have considered the application for adoption, the evidence adduced in support thereof as well as the various reports filed in court.
6. The prerequisites for before an adoption order can be made are set out in section 184 (1) (a) and (b) of the *Children Act, 2022*: -

- “(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.”

5. The subject child is a girl-child who was born on August 16, 2015. A copy of the child’s birth certificate Serial Number 553xxxx is annexed to the summons at Page 21.
6. Buckner Kenya Adoption Services which is a registered adoption agency have annexed to their report the original copy of their certificate Serial Number 06xxx dated September 9, 2022 declaring the child Free For Adoption. I am satisfied that the legal prerequisites for an adoption order have been met.
7. The duty of this court is to analyze the evidence on record to determine whether the Applicant is a suitable adoptive parent. The Applicant is a Kenyan citizen. She has annexed to the summons at Pages 1 to 2 a copy of her National Identity Card.
8. The Applicant wishes to adopt the child who is the daughter of the Applicant’s late twin sister in order to provide the child with a stable home and with parental love and guidance. The Applicant told the court that she took the child into her home in the year 2020 when the child’s mother fell ill and was unable to care for her. The Applicant now wishes to adopt the child in order to fully assimilate her into her family.
9. The Applicant is gainfully employed in the HR Department at the [particulars withheld]. She has annexed copies of her payslip at Pages 26-28 of the summons. The Applicant realizes a monthly salary of approximately Kshs 150,000. I am satisfied that the Applicant is financially secure and is able to provide for the needs of the child.
10. The Applicant is a Christian and intends to raise the child in the Christian faith. Annexed at Page 25 of the summons is a letter of recommendation dated April 24, 2022 written by Apostle CA of the [particulars withheld] Church where the Applicant worships.
11. The Applicant was examined by a medical Doctor and was found to be both mentally and physically fit. She has annexed a certificate of Clearance issued by the Directorate of Criminal Investigations proving that she has no criminal record.
12. The Applicant told the court that her family members are aware of and support her intention to adopt the subject child. She has appointed her sister and brother-in-law as the legal guardians for the child. Annexed at Page 29 of the summons is the letter of consent signed by the proposed legal Guardians AOL and LA confirming their willingness to be appointed as the legal Guardians for the child.



13. All in all I am satisfied that the Applicant is a suitable adoptive parent.
14. The child in question is the Seven (7) year old niece to the Applicant. The child's mother unfortunately passed away on August 21, 2021. A copy of the burial permit serial Number 1780xxxx is annexed to the summons at Page 3.
15. The child's father whose name is given as FK has played no role at all in the life of the child. The father abandoned the child and mother when the child was only two (2) months of age. The child's mother then proceeded to raise her daughter as a single mother.
16. The Applicant who is the twin sister of the child's mother reported that when the mother died, the child's father was contacted and asked what plans he had for the child. The father went underground and has not been heard from since. He did not even attend the burial of the child's mother.
17. Given the behavior of the child's father it is clear that he had abandoned the child shortly after her birth. In the circumstances I waive the requirement for the father's consent in line with Section 187 (1) (a) of the [Children Act, 2022](#).
18. 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, 2022](#) provides:-
 - “(8). In all actions concerning children, whether undertaken by public or
(1) 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]
19. The child herein was rendered motherless following the sad demise of her biological mother. The child's biological father has not been in her life since she was a baby. The child is in need of a home environment and a parental influence in her life.
20. The child has been living with the Applicant in her home since the year 2020 when the mother fell ill and became incapable of caring for the child. The child has adapted to her new family and even refers to the Applicant as 'Mum'.
21. I was able to see the child online. She was a healthy, cheerful young girl who readily answered all questions put to her by the court.
22. A Home visit was conducted by the Children's Department. The Applicant reside in a two-bedroomed apartment in the [particulars withheld] area of Nairobi County. The home was found to be a secure area and had adequate space and facilities for raising a young child. The Applicant has employed a Nanny to assist in caring for the child while she is away at work.
23. I have carefully perused the reports prepared by the Adoption Agency, the *guardian ad litem* and the Director Children's Services. All the three reports are favourable and all recommend the adoption.
24. Finally, I find that this adoption serves the best interests of the subject child. I therefore allow this application and make the following orders:-
 - (1) The Applicant WMW is authorized to adopt the child known as GMI.
 - (2) Upon adoption the child will be known as GMI.



- (3) The Registrar General is directed to make the relevant entry in the Adopted Children's Register.
- (4) AOL and LA are appointed as the legal guardians for the child.

DATED IN NAIROBI THIS 19TH DAY OF JUNE, 2023.

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MAUREEN A. ODERO

JUDGE

