



**In re MAO aka MAOO (Baby) (Adoption Cause E028 of 2023)
[2023] KEHC 20241 (KLR) (Family) (16 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 20241 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E028 OF 2023
PM NYAUNDI, J
JUNE 16, 2023
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF ADOPTION OF BABY MAO AKA MAOO**

JUDGMENT

1. This is a Kinship adoption. The applicants MOOL and CAO, vide originating summons dated 3rd March 2023 have made an application for the adoption of Baby MAO aka MAOO the minor herein. The Applicants have been married since March 27, 2015 and have attached a copy of the marriage certificate serial number xxxxx. They wish to adopt the baby so as to give the child a chance to grow up in a stable and happy home. They do have two children of their own namely JMJ and MDA. The 1st applicant is a businessman and the 2nd applicant is Nurse. They have a home in Kororompoi within Kajiado County. They aver that they have the means to provide for the Child's basic needs.
2. The Minor is 15 years old born on 8th June 2007 to DOO and MAA (deceased) who passed on in 2020 after succumbing to 44% burn complications. The 2nd Applicant is a sister to the minor. The minor was placed under her sister's (the second applicant) guardianship. The minor is form two and lives with her sister in Kajiado County.
3. The biological father Mr. DO approached the Kenya Children's Home Adoption and made his clear intention of offering his child for adoption and signed an affidavit of consent dated 8th February 2023. M gave her consent in writing and further upon an interview, she acknowledged the process and gave her approval verbally. The court appointed a Guardian Ad litem MS. EM.
4. The Guardian Ad Litem, Ms. EM filed a report dated April 28, 2023, confirming that she visited and interviewed the applicants and recommends the Couple adopt the Minor.
5. The proposed Legal Guardian, FOO also attended court. He is a cousin to the 1st Applicant and confirmed he is willing to take up the role of legal guardian.



6. 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.

- (1) 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.

7. The Applicants are aged 41 years and 34 Years respectively.

8. 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

9. This principle is restated under section 8 of the Children Act, 2022 which 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;

10. 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 March 3, 2023 and order as follows:

- a. The applicants Mr. MOO and Mrs. CAO be allowed to adopt Baby MAO
- b. The Child to be known as MAOO.
- c. The child's date of birth to be 8th June 2007 and her place of birth is hereby declared to be Pumwani Maternity, Nairobi County.
- d. FOO is hereby appointed as legal guardian of Child
- e. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children
- f. The Guardian Ad Litem is hereby discharged.



SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 16TH DAY OF JUNE, 2023.

P M NYAUNDI

HIGH COURT JUDGE

In the presence of

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