



REPUBLIC OF KENYA



**In re TF (Baby) (Adoption Cause E214 of 2022)
[2023] KEHC 18580 (KLR) (Family) (16 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 18580 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E214 OF 2022

RL KORIR, J

JUNE 16, 2023

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY T F
IN THE MATTER OF AN APPLICATION FOR ADOPTION**

IN THE MATTER OF

**EMO 1ST APPLICANT
RNN 2ND APPLICANT**

JUDGMENT

1. The Originating Summons before court is dated 29th November 2022. It seeks orders that: -
 - i. That the consent of the biological parents of Baby TF be and is hereby dispensed with since the infant was abandoned at Kerugoya Referral Hospital.
 - ii. That the Applicant be and is hereby authorized to adopt Baby TF and the child be called JB henceforth.
 - iii. That the Registrar-General do make the appropriate entries in the Adopted Children's Register in respect of Baby JB
 - iv. That the court does issue such other orders as may be necessary in the best interest of the child.
2. The Summons is supported by the joint statement of the Applicants EMO and RNN dated 29th November 2022 and their joint Affidavit sworn on even date.
3. On record are several statutory and supporting documents including: -
 - i. Report and Certificate by Little Angels Network an Adoption Society dated 2nd February 2023 declaring the child free for adoption pursuant to Section 456(I) of the Children's Act.



- ii. The Director of Children Services' Report dated 21st March 2023 giving background to the child and the proposed adoptive parents and recommending the adoption.
 - iii. Guardian Ad Litem's report dated 3rd April 2023 prepared and signed by the appointed Guardians Ad Litem AMO and JOM.
4. The Application was urged orally before me on 13th April 2023 by Ms. Chege Counsel for the Applicant on the court's virtual platform.
 5. The 1st Applicant EMO and the 2nd Applicant RNN told the court that their marriage had not been blessed with any children and they wished to adopt and care for the minor. Their motivation was to have a child.
 6. The Guardians Ad Litem AMO and JOM having been appointed by the court on 16th January 2023 stated to the court that they had prepared and filed their report which recommended adoption. They also stated that they wished to be appointed the legal guardians and were well aware of the responsibilities of a legal guardian.
 7. Counsel urged the court to consider the Reports of the Director for Children Services and of the Adoption Society already filed.

Analysis and Determination

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.”

Analysis and Determination

11. I have carefully considered the Application the evidence adduced and the reports filed.
12. With respect to the child, Section 184(i) A of the Children's Act as shown above requires that a child must be declared free for adoption before any adoption process is undertaken. In this case Little Angels Network, an Adoption Society filed a Case Report on the child and issued a Certificate declaring the child free for adoption both dated 2nd February 2022. In the case history contained in the report, the child was abandoned as an infant at Kerugoya Sub-County hospital by the mother and has to date not been claimed. The Consent of the parent or guardian is therefore dispensed with. I find the child free for adoption.



13. I have considered the suitability of the prospective adoptive parents. The Guardians ad Litem filed their report dated 3rd April 2023 in which they stated that the couple were in gainful employment, in good health and had adequate accommodation and were able to care for the child. On record also are the couple's bank statements which show their income. They have displayed Police clearance certificates which attest to their being law abiding citizens.
14. The Secretary for Children's Services filed their report as required by law. The Report dated 21st March 2023 and filed on 30th March 2023 confirms the suitability of the adoptive parents after a home visit and observation. It confirms that the law has been adhered to in the process and that the child had bonded well with the family.
15. The Child was not presented to the court at the time of the hearing. He was subsequently presented before my senior sister Odero J. on 14th April 2023 who observed in the proceedings that the child had bonded well with the Applicants.
16. Having considered all the above, I am satisfied that the application is merited. I grant the orders that: -
 - i. That the Applicants EMO and RNN be and are hereby authorized to adopt Baby TF and the child be renamed JB henceforth.
 - ii. That the Registrar-General do make the appropriate entries in the Adopted Children's Register.
 - iii. AMO and JOM be and are hereby appointed legal guardians.

Orders accordingly.

JUDGMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 16TH DAY OF JUNE, 2023

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R. LAGAT-KORIR

JUDGE

Judgment delivered in the presence of Ms. Waigwa holding brief for Ms. Chege for the Applicants, the 2nd Applicant and Siele (Court Assistant)

