



**In re BA (Child) (Adoption Cause E206 of 2022)
[2023] KEHC 20060 (KLR) (Family) (2 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 20060 (KLR)

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

FAMILY

ADOPTION CAUSE E206 OF 2022

PM NYAUNDI, J

JUNE 2, 2023

**IN THE MATTER OF ADOPTION OF BABY ABANDONED BABY GIRL ALIAS BA ... THE
CHILD**

IN THE MATTER OF

ADWM APPLICANT

JUDGMENT

1. The Applicant ADW, vide Originating Summons dated 17th November 2022 has made an application for the adoption of Baby Abandoned Baby Girl alias BA the minor herein. The Applicant is single. Her wish to adopt the baby is derived from her love for children and the provision of a family to a child.
2. She does not have children of her own. She is a finance and Accounting Manager at [Particulars withheld] in Kenya and is currently in stable employment. She has an apartment at [Particulars withheld] Residency Lavington. She avers that she has the means to provide for the Child's basic needs.
3. Neighbours at St. John Methodist Church found the Child abandoned on 21st September 2021 at [Particulars withheld] who called the assistant chief, Mercy Kimaita. The matter was reported to Subuiga police station and entered in their records vide O.B. No. xxxx.
4. After the child was handed over to P1 and her husband PK who were among those who had found the Child. The couple took care of the child for two days before handing the child over to Neema House Infant Centre on 23rd September 2021. On 25th October 2021, the child was committed to Neema House Infant Rescue Centre vide protection number xxxx by CM Nanyuki Court.
5. Prior to the hearing of the adoption application, Little Angels Network undertook a social inquiry and Home Study and prepared a report dated 24th June 2022. In the report, they found the Applicant to be a suitable parent and issues a certificate serial number xxxx declaring the child free for adoption.



6. The Court appointed a Guardian Ad litem JMM. She filed a report dated 23rd February 2023, wherein she confirms that she has visited and investigated the applicants and recommends the Applicant to adopt the child.
7. Esther Kalee a representative from Little Angels Network confirmed that they placed the child with the applicant and after visiting they are satisfied that the two have bonded well and the minor is well integrated into the family of the Applicant. He presented reports dated 8th April 2021 and 24th June 2023 confirming that the Child is available for adoption and the suitability of the applicant to adopt the child.
8. An officer of the Department of Children Services, Carolyne Olilo conducted home visits and prepared a report dated 18th April 2023. The report established that the child was found abandoned and has not been claimed by any known relative. That the Applicant has the means to cater to the Child's needs. That the child was placed with the Applicant for bonding on 24th June 2022 and has bonded well with her. The report finds that the applicant meets all the legal requirements for Adoption as provided and the *Children Act* and recommends that she be allowed to adopt the child.
9. The proposed Legal Guardians, CMG and GHMM also attended court and confirmed they are willing to take up the role of legal guardian.
10. 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.
11. The Applicant is aged 48 years.
 12. 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
 13. 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;

14. 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 17th November 2022 and order as follows:

- i. The Applicant ADWM be allowed to adopt Baby Abandoned Baby Girl Alias Bella Asali
- ii. The Child to be known as KBWMW.
- iii. The Child be presumed to be a Kenyan citizen by birth.
- iv. CMG and GHMM are hereby appointed as legal guardians of the Child
- v. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children.
- vi. The Guardian Ad litem is discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 2ND DAY OF JUNE, 2023.

P M NYAUNDI

HIGH COURT JUDGE

In the presence of;

D. Karanai Court Assistant

