



**In re AS (Minor) (Adoption Cause E005 of 2021)
[2023] KEHC 20349 (KLR) (19 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20349 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
ADOPTION CAUSE E005 OF 2021
TA ODERA, J
JULY 19, 2023**

IN THE MATTER OF

**PKK 1ST APPLICANT
LCK 2ND APPLICANT**

RULING

1. Baby AS who is the subject of the adoption application was found abandoned at [Particulars withheld] Trading Centre. The baby was approximated to have been born on May 5, 2015 when he was abandoned. *Vide* a letter dated May 5, 2005, Rongai Police Station confirmed the child had been abandoned and rescued at [Particulars withheld] Centre and the matter was booked vide Occurrence Book Number 12/XX/XX/15.
2. Subsequently, the baby was admitted to Africa Gospel Church Centre-Nakuru on May 5, 2015. The details of his family was unknown. On June 17, 2015 the child was presented before Children’s Court at Molo and was committed to Africa Gospel Church Baby Centre vide protection and care Case Number 48 of 2015.
3. Rongai Police Station in a letter dated May 10, 2017 confirmed that after investigation was conducted the efforts to trace child’s parents and relatives bore no fruits.
4. Social worker from Kenya Children’s home Adoption Society visited Rongai Police Station on October 13, 2017 and upon perusal of the Police Occurrence Book she found no contact details and meanwhile the Africa Gospel Church Baby Centre further reported that during the stay with the child no one had turned up to claim him and it had also not received any information from the Department of the Children’s Services, Police Department regarding any claimants.
5. On May 26, 2017 the Case Committee of Little Angels Network as prescribed by Regulations 16 of the *Adoption Regulations* 2005 deliberated this matter and was satisfied that the baby herein was available



for adoption and further that Adoption would be in the best interest of the child. Consequently, the baby was declared free for adoption vide a certificate dated May 26, 2017.

6. On January 17, 2018, the baby was placed with Applicants as prospective adoptive parents. The prospective adoptive parents are a married couple. LCK, the wife passed away on July 31, 2021 before the conclusion of this matter. In that marriage, PKRK the husband and his deceased wife were blessed with three daughters, who are now 28, 25 and 23 years old. On the wife passing away, the husband wrote a letter on March 6, 2023 to the Chief Executive officer of Kenya Children's Home expressing his intention of terminating the adoption process. He stated that since the demise of his wife he has faced a great challenge taking good care of the child since he and his other children are always away and the house helps whom he had employed were unstable. He requested the child to be taken away so that he could get good care elsewhere.
7. I have seen a report by the County Children's Coordinator from Nakuru dated July 7, 2023. The same confirms that PKRK rescinded his decision to adopt the minor herein as his circumstances have changed having lost his wife who was his co-applicant herein and the Kenya Children's home Adoption Society have no objection to that decision. The report also confirms that the child is safely at Kenya Children's Homes, Thomas Barnados House in Nairobi.
8. Under Article 53 of the Constitution and Section 4 of the Children Act 2022, the Court has to consider the best interests of the child as being the first and paramount consideration. The court is called upon to adopt a course of action that is calculated to safeguard and promote the rights and welfare of the child in question.
9. In the premises therefore, it is in the best interest of the child that he remains under the care and custody of Kenya Children's Homes, Thomas Barnados House in Nairobi.
10. In the upshot, the Application by the applicant dated March 6, 2023 is allowed. The adoption proceedings herein are terminated. The original declaration report be released to the applicant's counsel for onward transmission to the Children's home and its copy be kept in the file. File is closed.

T. A. ODERA - JUDGE

19/7/2023

RULING DELIVERED VIRTUALLY VIA TEAMS PLATFORM IN THE PRESENCE OF;

Mugweru for Applicants.

Court Assistant: Bor

T. A. ODERA - JUDGE

19/7/2023

