



**In re PD alias AM alias PAS (Child) (Adoption Cause 3 of 2018) [2023] KEHC 20877 (KLR) (19 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20877 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
ADOPTION CAUSE 3 OF 2018**

**JK SERGON, J**

**JULY 19, 2023**

**IN THE MATTER OF THE ADOPTION OF BABY PD ALIAS AM ALIAS PAS (CHILD)  
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY**

**IN THE MATTER OF**

**SMB ..... 1<sup>ST</sup> APPLICANT**

**HNN ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. Before the court is the originating summons dated August 10, 2018 by which the applicants seek the following orders;
  - i. Spent
  - ii. Spent
  - iii. That the applicants; SMB and HNN be authorized to adopt the female child currently identified and known as baby PD.
  - iv. That PKS and JS both of Post Office Box No xxx, Eldoret be appointed guardians to take care of the interests of the minor should any misfortune befall the applicants.
  - v. That the child be renamed PAS.
  - vi. That the child be declared a Kenyan citizen.
  - vii. That the Registrar General does make appropriate entries in the Adopted Children’s Register.
  - viii. That the court does issue such orders and directions as are in the interest of justice.
2. The application was supported by an affidavit sworn by SMB a co-applicant and on behalf of HNN and statement in support of the application for an adoption order of even date sworn by both applicants.



3. The applicants got married on November 15, 1997 under the *Christian Marriage and Divorce Act* and have remained legally married to date as evidenced by the marriage certificate annexed in the applicants' bundle of documents.
4. The applicants are teachers and farmers they therefore have the financial means and capability to take care of the child.
5. The applicants in support of their application for adoption deponed that they have no criminal record.
6. The applicants in support of their application for adoption deponed that they do not have any physical or mental ailment that would hamper parenting of the child herein.
7. The applicants applied for adoption on July 27, 2012 through the Kenya Children's Homes, an Adoption Society incorporated under the *Children Act*, pursuant to the said application, child placement was considered and approved by the adoption society and subsequently *vide* a care and placement agreement dated June 26, 2015 the child was committed to their care by Mahali pa Maisha upon approval by the Kenya Children's Homes.
8. The applicants took physical custody of the child and assumed parental responsibility to the date of this instant application. The applicants abided by the terms and conditions of the care agreement.
9. The applicant deponed that they had been advised by their advocate on record that they met the requisite qualifications for grant of an adoption order as shown in the adoption bundle annexed hereto and marked as "HN1".
10. The child was presumably born on October 1, 2013 by one M . The child was found by members of the public in a locked house on January 28, 2015, the child had been abandoned by her alleged mother known as M. M had previously abandoned the child sometime in October, 2014, Mahali pa Maisha took the child in, she later convinced them to let her have her child back.
11. The mother was subsequently arrested and charged for child neglect at Kajiado Law Courts. The child was taken to Saidia Children's Home for the night before being placed at Mahali pa Maisha the following day on January 29, 2015 for care and protection.
12. The case was reported at Kitengela Police Station on January 28, 2015 *vide* occurrence book No.
13. The child was subsequently committed to Mahali Pa Maisha for care and protection for a period of twelve (12) months by the Resident Magistrate's Court at Kajiado on June 10, 2015 *vide* P & C Case No of 2015.
14. The police issued a final letter dated June 24, 2015 and confirmed that the parents of the child could not be traced.
15. The child was declared free for adoption on June 26, 2015 *vide* certificate serial No issued by the Little Angels Network.
16. The guardian *ad litem* filed a report dated October 15, 2018 and the Children's Department filed a social enquiry report dated November 6, 2018 and recommended the adoption.
17. I have considered the originating summons filed herein dated August 10, 2018 and the supporting documents filed in support of the application for adoption. I find that the applicants are suitable persons to take charge of the child and safeguard her interests and that the adoption herein will serve the best interest of the child.



18. I also take cognizance of the fact that this is the applicants' second adoption application; they were initially placed with their first adopted son on November 17, 2012 from Africa Gospel Church Baby Center Nakuru, an adoption cause filed *vide* adoption cause No 1 of 2014 in this court, the application was successfully finalized on June 5, 2015 and a certificate of entry in the adopted children register via entry No ACR issued.
19. 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* No 29 of 2022 provides as follows;
- “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;”
20. I hereby allow the originating summons dated August 10, 2018 in the following terms;
- i. That the applicants herein be and are hereby authorized to adopt the child.
  - ii. That PKS and JS be and are hereby appointed the legal guardians of the child to take care of the interests of the minor should any misfortune befall the applicants.
  - iii. That the guardian *ad litem* be and is hereby discharged.
  - iv. That the child shall henceforth be called PAS
  - v. That the child is hereby declared a Kenyan citizen.
  - vi. That the Registrar General be and is hereby directed to register this adoption in the Adopted Children's Register. Orders to issue accordingly.

**DATED, SIGNED AND DELIVERED THIS 19<sup>TH</sup> DAY OF JULY, 2023.**

.....

**J.K. SERGON**

**JUDGE**

In the presence of:

C/Assistant - Rutoh

Miss Sang holding brief for Koech for Applicant

