



REPUBLIC OF KENYA



KENYA LAW
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**In re ATM & RN (Minors) (Adoption Cause E003 of 2023)
[2023] KEHC 20135 (KLR) (18 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20135 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
ADOPTION CAUSE E003 OF 2023**

JN KAMAU, J

JULY 18, 2023

JUDGMENT

1. In her Originating Summons dated May 10, 2023 and filed on May 11, 2023, the Applicant herein, sought that she be allowed to adopt ATM and RRN (hereinafter referred to as ATM and RN) who were born on October 25, 2005 and September 30, 2005 respectively. She had also sought that WO, AON and VMV be appointed as legal guardians of the children in the event she died or became incapable by death.
2. She further sought that the Registrar General be directed to enter the Adoption Order in the Adopted Children's Register and that the Director of Immigration issue ATM and RN with Kenyan Passports.
3. Her said Originating Summons was supported by her Affidavit that she swore on May 10, 2023. She attached copies of her Police Clearance Certificate, Form for Enquiry for Prospective Adopter(s), Certificates of Birth for ATM and RN, Consents to give up a Child for Adoption by their father, mother and aunt namely, JON, CML and EV, Certificates of Declaration a Child Free for Adoption Nos XXXX and XXXX, Reports to Declare a Child Free for Adoption pursuant to Section 184(1) (a) of the [Children Act](#) for ATM and RN respectively and Guardian's Letter of Consent dated May 17, 2022.
4. On July 4, 2023, the Applicant filed a Chamber Summons application dated July 3, 2023 seeking the court do appoint JON and AON as Guardian ad Litem and Legal Guardian respectively for ATM and RN and that the court do order that the Directorate of Children Services Vihiga Sub-County to file a Report on the suitability of the Applicant herein to adopt ATM and RM.
5. On July 6, 2023, this court granted the prayer seeking that the Directorate of Children Services Vihiga Sub-County to file a Report on the suitability of the Applicant herein to adopt ATM and RM but directed that the Applicant files two (2) Verifying Affidavits verifying fitness of the proposed Guardian ad Litem and Legal Guardian and listed the Chamber Summons application dated May 10, 2023 and filed on May 11, 2023 for hearing on July 13, 2023 for the appointment of the Guardian *ad Litem* and Legal Guardian.



6. On July 12, 2023, the Applicant filed Affidavits by JMM and WMK that were both sworn on July 11, 2023 verifying her fitness and that of the proposed Guardian *ad Litem*. She did not, however, file an affidavit verifying the fitness of the Legal Guardian contrary to the orders of July 6, 2023.
7. Aggrey Ambwaya, County Co-ordinator Children's Services of the County Children Office filed Home Visit Reports in respect of ATM and RN on July 13, 2023. The Guardian *ad Litem*'s report was dated July 17, 2023 and filed on July 18, 2023. Both reports were positive and recommended the adoption and ATM and RN by the Applicant herein.
8. This court considered the sentiments of ATM and RN who wished to be adopted by the Applicant herein. As they were both likely to get alot of opportunities in the United States of America where the Applicant resided and worked as a Nurse, it would be in their best interest that this court allows this kinship adoption.

Disposition

9. For the foregoing reasons, the upshot of this court's decision was that the Applicant's Originating Summons that was dated May 10, 2023 and filed on May 11, 2023 was merited and the same be and is hereby allowed in terms of Prayer Nos (4) and (5) therein. There will be no order as to costs.
10. The Guardian *ad Litem* be and is hereby discharged from further obligations unless otherwise required by the court.
11. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 18TH DAY OF JULY 2023

J KAMAU

JUDGE

