



REPUBLIC OF KENYA



**In re Baby Sam (Child) (Adoption Cause E024 of 2022)
[2023] KEHC 20516 (KLR) (14 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20516 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E024 OF 2022
A MSHILA, J
JULY 14, 2023
IN THE MATTER OF THE CHILDREN'S ACT
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF
BABY S (A CHILD)**

IN THE MATTER OF

BMM 1ST APPLICANT

JWM 2ND APPLICANT

JUDGMENT

1. The application is brought by way of an Originating Summons and is dated the 1st day of August, 2022 and is premised under the provisions of Sections 154, 156, 159(1) 159(4), 160 and all other enabling provisions of the *Children's Act*. The applicants seek the following Orders;
 - a. That FDAO be appointed as Guardian Ad Litem of Baby S;
 - b. That the Applicants BMM and JWM be authorized to legally adopt baby S who will be known as AKM;
 - c. That Baby S be presumed to be a Kenyan citizen;
 - d. LNG be appointed as next of kin and legal guardian to Baby S;
 - e. The Registrar General do make the appropriate entry of AKM in the Adopted Children's Register.
2. The application was supported by a joint statement and Affidavit made by the Applicants; The Guardian Ad Litem FDAO was appointed on the 26th January, 2023; This court directed the Director



of Children's Services and the Guardian Ad Litem to carry out a home visit and do investigations and to file their Reports.

3. After visiting and interrogating the Applicants the Juja Sub-County Children's Office and the Guardian Ad Litem filed their respective Reports on the Applicants suitability to adopt baby S; the reports were duly filed in court and are dated 13th July, 2023 and 26th April, 2023 respectively; both reports are highly favourable to the Applicants and recommend their suitability as adoptive parents.
4. The baby who is male was born on 2nd April, 2020 and found abandoned at [Particulars Withheld] on the day; the case of abandonment was reported to Sunton Police Station vide OB No xxxx ; efforts to trace the biological mother have borne no fruit and consequently the court was urged to dispense with her consent.
5. The baby was admitted to Happy Life Childrens' Home, for temporary shelter, care and protection whilst awaiting committal; under the Protection and Care Case No. xxxx the Children's Court sitting at Nairobi baby S was formally committed vide Order issued on 6th November, 2020 to the aforesaid institution for protection and care until his fostering on 21st April, 2022. On the 24/02/2021 he was declared free for adoption under Section 156(1) of the Children's Act and a Certificate Serial Number xxxx was issued by the KKPI Adoption Society.
6. After reading and taking into consideration the contents of these Reports and the court was satisfied that all the legal requirements had been adhered to notably; the Applicants are Kenyan citizens and they solemnized their marriage on 8th December, 2007 at [Particulars Withheld] as evidenced by the copy of the attached Certificate of Marriage Serial No.xxxx; at the time of filing this application the prospective adoptive parents BMM was aged 44 years whereas JWM was aged 40 years and therefore both their ages fall within the prescribed legal parameters; The Applicants have one adoptive child namely ANM but have no biological children of their own; Both are in gainful employment as teachers and have produced into court copies of Title documents and Bank Statements to prove their financial capability to support Baby Sam when they assume responsibility of her upbringing.
7. The Certificate of Good Conduct is current and valid and this court is satisfied that there are no adverse circumstances discernible from the families of the applicant or any individual characteristics or lifestyle that would be detrimental to the baby;
8. It is noted that the consent of the proposed Legal Guardian has been duly filed.
9. For the reasons stated above this court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders and are found to be suitable persons to adopt baby S and it is satisfied that the order for adoption will be in the best interest of the baby.

Findings & Determination

10. For the forgoing reasons this court finds that the application for adoption has merit and it is hereby allowed;
11. The Applicants are hereby authorized to adopt baby S; he shall be known as AKM.
12. That baby S be presumed to be a Kenyan citizen;
13. The Registrar General is hereby directed to enter this adoption order of AKM in the Adopted Children's Register; the Registrar Births and Deaths is hereby directed to issue a Certificate of Birth in the name AKM.



- f. The Guardian Ad Litem FDAO is hereby discharged and LNG be appointed as next of kin and legal guardian to baby AKM until the minor attains the age of majority of eighteen (18) years.
- g. The leave of court to be obtained in the event AKM is to be taken out of the court's jurisdiction Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 14TH DAY OF JULY, 2023.

HON.A. MSHILA

JUDGE

