



**In re Baby CB (Child) (Adoption Cause E025 of 2022)  
[2023] KEHC 20075 (KLR) (7 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20075 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E025 OF 2022**

**A MSHILA, J**

**JULY 7, 2023**

**IN THE MATTER OF THE CHILDREN’S ACT**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF BABY CB (A CHILD)**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. The application is brought by way of an Originating Summons and is dated the August 1, 2022 and is premised under the provisions of Sections 154, 156, 158, 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 CB;
  - b. That the applicants BMM and JWM be authorized to legally adopt Baby CB who will be known as ANM ;
  - c. That Baby CB be presumed to be a Kenyan citizen;
  - d. LNG be appointed as next of kin and legal guardian to Baby CB;
  - e. The Registrar General do make the appropriate entry of ANM 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* Jackson Ndegwa Wanjohi was appointed on January 26, 2023; This court directed the Children’s Services Officer 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 CB; the reports were duly filed in court and are dated April 11, 2023 and April 26, 2023 respectively; both reports are highly favourable to the applicants and recommend their suitability as adoptive parents.
4. The baby who is female was born on March 15, 2020 and was found abandoned within the Githurai 44 Area on March 18, 2022; the case of abandonment was reported to Kasarani Police Station vide OB No 49/18/03/2020; 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 on November 6, 2020 admitted to Happy Life Childrens' Home, for temporary shelter, care and protection whilst awaiting committal; under the Protection and Care Case No 276 of 2020 the Children's Court sitting at Nairobi baby CB was formally committed vide Order issued on November 6, 2020 to the aforesaid institution for protection and care. On February 24, 2021 she was declared free for adoption under Section 156(1) of the Children's Act and a Certificate Serial Number 252 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 December 8, 2007 at Christ the Teacher Church as evidenced by the copy of the attached Certificate of Marriage Serial No 133701; 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 no biological children of their own; Both are teachers and 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 CB 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 consents of the proposed Legal Guardians have 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 CB 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 CB; she shall be known as ANM .
12. That Baby CB be presumed to be a Kenyan citizen;
13. The Registrar General is hereby directed to enter this adoption order of ANM in the Adopted Children's Register; the Registrar Births and Deaths is hereby directed to issue a Certificate of Birth in the name ANM .
- f. The Guardian Ad Litem is hereby discharged and LNG be appointed as next of kin and legal guardian to baby ANM until the minor attains the age of majority of eighteen (18) years.
- g. The leave of court to be obtained in the event ANM is to be taken out of the courts jurisdiction



Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 7<sup>TH</sup> DAY OF JULY, 2023.**

**HON.A. MSHILA**

**JUDGE**

**In the presence of;**

Mourice – Court Assistant

Kiplagat – h/b for Mrs Odiya – for Applicants

