



**In re Baby S (Child) (Adoption Cause E010 of 2023)
[2023] KEHC 20068 (KLR) (7 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 20068 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E010 OF 2023**

A MSHILA, J

JULY 7, 2023

IN THE MATTER OF

FNK 1ST APPLICANT

EWM 2ND APPLICANT

JUDGMENT

1. The application is brought by way of an Originating Summons dated the March 6, 2023 and is premised under the provisions of Sections 183, 184, 185, 186, 187, 188, 194, 195 & 201 and all other enabling provisions of the *Children's Act*. The Applicants seek the following Orders;
 - a. That SMM be appointed as Guardian Ad Litem of BABY S;
 - b. That the Applicants FNK And EWM be authorized to legally adopt Baby S who will be known as SFWN;
 - c. That Baby S be presumed to be a Kenyan citizen;
 - d. CWM be appointed as next of kin and legal guardian to Baby S;
 - e. The Registrar General do make the appropriate entry of SFWN in the Adopted Children's Register.
 - f. The court make further orders as it deems fit in the interest of justice.
2. The application was supported by a joint statement and Affidavit made by the Applicants; The Guardian Ad Litem SMM was appointed on the March 15, 2023; This court directed the Department of Children's Services and the Guardian Ad Litem to carry out home visits and to file their respective reports.



3. After visiting and interrogating the Applicants the Nairobi County Department of Children's Services filed a Social Enquiry Report and the Guardian Ad Litem filed his Report on the Applicants suitability to adopt baby S; the reports were duly filed in court and are dated 20th March and February 7, 2023;
4. The baby S who is female was born on the August 8, 2017 and was born to JNN and on August 28, 2017 approached KKPI Adoption Society and offered 'Mother Offer' the baby up for adoption as she was unable to cater for the needs of the minor child.
5. The biological mother J appended her signature on an undated handwritten letter addressed to KKPI Adoption Society and later signed a Consent in the form of a Certificate of Acknowledgement from KKPI which was dated August 28, 2017;
6. The baby was admitted to Happy Life Children Home, for temporary shelter, care and protection whilst awaiting adoption; under Protection and Care Case No 38 of 2018 the Children's Court sitting at Nairobi formally committed baby S vide Order issued on February 19, 2018 to the aforesaid institution for protection and care.
7. On the March 6, 2019 Baby S was declared free for adoption under Section 156(1) of the Children's Act and a Certificate Serial Number xxx was issued by the KKPI Adoption Society.
8. After reading and taking into consideration the contents of these Reports, this court is satisfied that all the legal requirements have been adhered to notably; the Applicants are Kenyan citizens and they solemnized their marriage on October 14, 2006 as evidenced by the copy of the attached Certificate of Marriage Serial No xxxx; at the time of filing this application the prospective adoptive father FNK was aged 45 years whereas AND EWM was aged 45 years and therefore both their ages fall within the prescribed legal parameters; The Applicants have four (4) children named YK aged 16 years AW- aged 14 years RM aged 6 years and JK aged 3 years. The prospective parents are both self-employed and carry on private business; Both have produced into court copies of Title documents and Bank Statements to prove their financial capability to support Baby S when they assume responsibility of her upbringing.
9. The Certificates of Good Conduct are current and valid and this court is satisfied that there are no adverse circumstances discernible from the families of the Applicants or any individual characteristics or lifestyle that would be detrimental to the baby S;
10. The Reports filed by the Department of Children Services and the Guardian ad Litem are found to be highly favourable to the Applicants and recommend their suitability as adoptive parents.
11. 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 is further satisfied that the order for adoption will be in the best interest of the baby.

Findings & Determination

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



- g. The Guardian Ad Litem SMM is hereby discharged and CWM be appointed as next of kin and legal guardians to Baby S until the minor attains the age of majority of eighteen (18) years
- h. Leave shall be obtained from this court in the event the Baby SFWN is taken out of this court's jurisdiction.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 7TH DAY OF JULY, 2023.

HON.A.MSHILA

JUDGE

In the presence of;

Mourice – Court Assistant

Miss Ambaka – for Applicants

