



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re BR aka IM (Baby) (Adoption Cause E036 of 2023)  
[2023] KEHC 19863 (KLR) (7 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 19863 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E036 OF 2023  
A MSHILA, J  
JULY 7, 2023  
IN THE MATTER OF THE CHILDREN ACT  
AND  
IN THE MATTER OF AN APPLICATION FOR  
ADOPTION ORDER OF BABY BR AKA IM (A CHILD)**

**IN THE MATTER OF**

**GNM ..... 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 of the *Children Act* and all other enabling provisions. The Applicants seek the following orders;
  - a. That KNN be appointed as Guardian Ad Litem of baby BR aka IM;
  - b. That the Applicant GNM be authorized to legally adopt BABY BR aka IM who will be known as HBW;
  - c. That baby BR aka IM be presumed to be a Kenyan citizen;
  - d. PGM and LMK be appointed as next of kin and legal guardian to baby BR aka IM;
  - e. The Registrar General do make the appropriate entry of BR aka IM 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 BR aka IM; the reports were duly filed in court and are dated March 20, 2023 and February 7, 2023;
  4. The baby BR aka IM 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 BR aka IM vide Order issued on February 19, 2018 to the aforesaid institution for protection and care.
  7. On the March 6, 2019 Baby BR aka IM was declared free for adoption under Section 156(1) of the [Children Act](#) and a Certificate Serial Number 887 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 xxxxxx; at the time of filing this application the prospective adoptive mother GNM was aged 45 years 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 BR aka IM 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 BR aka IM;
  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 BR aka IM 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 applicant is hereby authorized to adopt baby BR aka IM; she shall be known as HBW.
14. That Baby HBW 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 HBW.
16. The *guardian ad litem* KNN is hereby discharged and PGM and LMK be appointed as next of kin and legal guardians to Baby HBW until the minor attains the age of majority of eighteen (18) years.  
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

Mrs Kimenye – for the Applicant

