



**In re NJ alias Baby N (Child) (Adoption Cause 80 of 2018)
[2023] KEHC 23246 (KLR) (Family) (22 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 23246 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY**

ADOPTION CAUSE 80 OF 2018

PM NYAUNDI, J

SEPTEMBER 22, 2023

IN THE MATTER OF ADOPTION OF BABY NJ ALIAS BABY NN -THE CHILD

IN THE MATTER OF

JWM APPLICANT

JUDGMENT

1. The applicant, JWM vide originating summons dated June 5, 2018 has made an application for the adoption of Baby NJ Alias Baby N the child herein. The applicant is a widower. He has 2 other adult children.
2. The matter proceeded for hearing via viva voce evidence on the Teams virtual platform on the August 23, 2023.
3. The applicant is Kenyan Citizen. He avers that he has the financial means and capability to take care of the Child. The applicant is businessman, and proprietor of [Particulars Withheld] Schools. He has had custody of the child since he was a toddler. She resides in Nairobi County. He fully understands the consequences of an adoption order
4. The child was found abandoned on March 5, 2010 at Karagita in Naivasha near a Mosque aged at 3 months 2 days old. He was rescued by a good Samaritan who reported the matter at Naivasha Police Station and the report was recorded as OB No. xx/x/x/2010. He was later admitted at New Life Home Trust Nakuru. It was from this home that the applicant along with his deceased wife were granted custody of the child.
5. The minor attended court, he recognises the applicant as his father and the other adult children as his siblings.
6. JM, the Guardian Ad Litem was present in court, she confirmed that she prepared a report as required and that she recommend the adoption.



7. The Court has also considered the report of the Directorate of Children Services dated 14th June 2021 and note that it recommends and supports the adoption.
8. The proposed Legal Guardian, JMM was present in Court t and confirmed that he consents to assuming this role. He is the son of the applicant and therefore elder brother to the Child.
9. After carefully assessing the records herein, I am satisfied that the applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the Children Act, 2022 provides. The court may make an adoption order on application by-
 - (1) (a) Sole applicant; or
(b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
 - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
10. The applicant is 59 years. Article 53 of the Constitution of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

A Child's Best interests are of paramount importance in every matter concerning the child.
11. This principle is restated Under section 8 of the Children Act , 2022 which provides Best interests of the child. In all actions concerning children, whether undertaken.
 - (1) By public or private social welfare institutions, courts of the law, administrative authorities, or legislative bodies-
 - (a) The best interests of the child shall be the primary consideration;
 - (b) The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.

Section 194 (1) (c) of the Act also requires that if the adoption order is made

The order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;
15. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the applicant.
16. Accordingly, I allow the prayers sought in the originating summons dated June 5, 2018and order as follows:
 - I. The applicant JWM be allowed to adopt Baby NJ Alias Baby N.
 - II. The Child is to be known as LMM.



- III. The Child be presumed to be a Kenyan citizen by birth.
- IV. JMM is hereby appointed as legal guardian of Child.
- V. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children.
- VI. The Guardian Ad litem is discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 22ND DAY OF SEPTEMBER, 2023.

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**P M NYAUNDI
HIGH COURT JUDGE**

In the presence of;

Sylvia Court Assistance

