



REPUBLIC OF KENYA



**In re EAM (Minor) (Adoption Cause E183 of 2022)
[2023] KEHC 24428 (KLR) (Family) (18 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 24428 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E183 OF 2022
EKO OGOLA, J
SEPTEMBER 18, 2023
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF EAM (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY PAA & EFAS
JUDGMENT**

1. The Originating Summons before me is dated 5th October 2022. The Applicants pray for the following:
 - a. That the Applicants be and are hereby authorized to adopt EAM, minor therein;
 - b. That upon adoption, the child be known as EAFS;
 - c. That the Registrar General be ordered to make appropriate entries in the Adopted Children's Register in respect of EAFS;
 - d. That the court be pleased to appoint RO and TNO as the legal guardians of EAFS upon granting of the adoption orders.
2. The Originating Summon is supported by a joint Statement in Support of the Adoption Application and a joint Affidavit of the Applicants. The Application was canvassed by way of viva voce evidence in open court.
3. The Applicants are a married couple. They celebrated their marriage on 24th October 2021. Annexed to the Summons is a Certified Copy of Certificate of Marriage Serial No. xxx. The 1st Applicant who is a Kenyan citizen is the biological mother of the minor who was born in Machakos County on 18th



August 2008. As per the Report by the Kenya Children's Homes Adoption Society, the minor was born to the 1st Applicant out of a rape incident. The 2nd Applicant is a Dutch citizen.

4. The Applicants have enough resources enough to take care of the minor. Attached to the Summons is a copy of the 1st Applicant's bank statement. The financial statement is evidence that they are financially stable with sufficient income to provide for the minor. The 1st Applicant has also proved that she has no previous convictions. Annexed to the Summons is a copy of her Clearance Certificate issued by the Directorate of Criminal Investigations.
5. On record are Reports from the guardian ad litem, the Department of Children's Service and the Adoption Society. From the reports, it is stated that the whereabouts of the biological father are unknown since the minor was conceived through a rape incident. Therefore, I hereby waive the requirement for the father's consent in line with Section 187 (1)(a) of the *Children's Act, 2022*.
6. The minor was born on 18th August 2008. From the Reports on record, it is stated that the minor has interacted with 2nd Applicant and she knows him as her mother's husband, therefore, she fully consents to the adoption. The Adoption Society declared the minor free for adoption on 15th June 2022 under a Certificate of Freeing serial number 848. All the Reports on record were positive and did not have any reservations about the adoption.
7. In deciding upon matters involving children, the Courts are obliged to give priority to the best interest of the said child. See Section 8(1) of the Children's Act. Since this is a kinship adoption that is provided under Section 193 of the Children's Act, the minor will remain within the same family unit and will further retain contact with her biological mother and her relatives.
8. The upshot is that this adoption will serve the best interest of the minor and I accordingly allow the Originating Summons dated 5th October 2022 and make the following orders:-
 - a. That the Applicants, PAA and EAFS are authorized to adopt the child known as MTP.
 - b. Upon adoption, the minor shall be known as EAFS
 - c. That the Registrar General is directed to make the relevant entry in the Adopted Children's Register.
 - d. That RO and TNO be appointed as the legal guardian for the child in the event the applicants are incapacitated or in any way unable to discharge their parental obligation.
 - e. The guardian ad litem is hereby discharged.

It is so ordered.

DATED AND DELIVERED IN NAIROBI THIS 18TH DAY OF SEPTEMBER 2023.

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E.K. OGOLA

JUDGE

