



**In re Baby PG (Adoption Cause E026 of 2023)  
[2024] KEHC 14304 (KLR) (15 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 14304 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E026 OF 2023  
A MSHILA, J  
NOVEMBER 15, 2024  
N THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF  
BABY P.G**

**IN THE MATTER OF**

**SNK ..... 1<sup>ST</sup> APPLICANT  
JWK ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. The application is brought by way of an Originating Summons and is dated the 15<sup>th</sup> November, 2023; and is premised under the provisions of Sections 8 and 183 of the Children’s Act 2022; Section 9 of the Kenya Citizenship and Immigration Act No.12 of 2011 and Section 14 of the Constitution of Kenya, 2010. The Applicants seek the following Orders;

That the Applicants S.N.K. AND J.W.K. be authorized to legally adopt BABY P.G who will be known as J.K.N.;

- a. That the applicants be authorized to adopt the child P.G.
- b. That the consent of the biological parents be dispensed with as the child was abandoned.
- c. That upon the making of the adoption orders the said child be known as J.P.K.N.
- d. The Registrar General do make the appropriate entry of J.P.K.N. in the Adopted Children’s Register.
- e. That the child J.P.K.N. be presumed to be a Kenyan citizen born in Kenya and that the Director of Immigration Services do issue J.P.K.N. with a Kenyan passport.
- f. That ZMMK be appointed Legal Guardian of the child J.P.K.N.



2. The application was supported by a joint statement and Affidavit made by the Applicants S.N.K. AND J.W.K. The Guardian Ad Litem HENRY ASAVA MUSASIA was appointed on the 31<sup>st</sup> January, 2024; This court directed the Director of Children's Services and the Guardian Ad Litem to carry out home visits and do investigations and to file their respective Reports.
3. After visiting and interrogating the Applicants the Thika Sub-County Children's Office and the Guardian Ad Litem filed their respective Reports on the Applicants suitability to adopt BABY P.G the reports were duly filed in court and are dated 17<sup>th</sup> May, 2024 and 7<sup>th</sup> March, 2024;
4. BABY P.G who is male was born on 25<sup>th</sup> November, 2018 was born to Mildred Muhonja and Denis Oduro at Vihiga County Referral Hospital; Mildred Muhonja the child's mother was a minor aged 17 years and accompanied with her maternal grandmother and the baby's father they approached the Child Welfare Society of Kenya (CWSK) and expressed their intentions of offering the child for adoption once he was born as the pregnancy was as a result of an incestuous relationship and they believed it would be in the best interest of the child.
5. BABY P.G was admitted on 27/11/2018 to CWSK Kanduyi Temporary Place of Safety for temporary shelter, care and protection whilst awaiting committal; under the PROTECTION AND CARE CASE NO.119 of 2018 the Children's Court sitting at Vihiga BABY P.G was formally committed vide Order issued on 28/11/2018 to the aforesaid institution for protection and care for a period of three (3) years; On the 19/07/2021 he was declared free for adoption under Section 194 of the Children's Act 2022 and a Certificate Serial Number 1055 was issued by Child Welfare Society of Kenya.
6. After reading and taking into consideration the contents of these Reports this court notes that the Applicants are both Kenyan citizens; they solemnized their marriage at the PEFA church in Thika on 12/07/2008 as evidenced by the copy of the attached Certificate of Marriage Serial No.437424; at the time of filing this application the prospective adoptive parents S.N.K. was aged 53 years and J.W.K. was aged 61 years.
7. On the issue of the age of the prospective adoptive parents the applicable law is found at Section 186 (2) (b) of the new Childrens' Act, 2022 and it reads as follows;
  - (2) The court shall not make an adoption order in any case unless -
    - (b) the applicant or both of the applicants in a joint application is more than twenty- one years older than the child
8. This then means that both their ages fall within the prescribed legal parameters;
9. The Applicants have no biological children of their own.
10. S.N.K. and J.W.K. are both business people and carry on business in Thika Town; the Applicants have produced into court copies of their Bank Statements to prove their financial capability to support BABY P.G when they assume responsibility of his upbringing.
11. 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 child;
12. It is noted that this is was a case of mother offer and both the biological parents and the maternal grandmother acting as their guardian voluntarily signed the Certificate of Acknowledgment which demonstrates that they have willingly offered and consented to the giving up of the child for adoption after birth.



13. This court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders sought to be granted;

**Findings & Determination**

14. For the forgoing reasons this court finds that the application for kinship adoption is in the best interest of the child and it is hereby allowed.
15. The Applicants be and are hereby authorized to adopt BABY P.G he shall be known as J.P.K.N.
16. The Registrar General be and is hereby directed to enter this adoption order of J.P.K.N. in the Adopted Children's Register;
17. ZMMK be and is hereby appointed to stand in as legal guardian to BABY P.G until the child attains the age of majority of eighteen (18) years.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 15<sup>TH</sup> DAY OF NOVEMBER, 2024.**

**HON. A. MSHILA**

**JUDGE**

In the presence of

Sanja – Court Assistant

Applicants – Absent – Read out in their absence

