



REPUBLIC OF KENYA



KENYA LAW
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**In re SMK & EWM (Adoption Cause 2 of 2011)
[2021] KEHC 550 (KLR) (9 December 2021) (Ruling)**

In re of SMK & EWM [2021] eKLR

Neutral citation: [2021] KEHC 550 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
ADOPTION CAUSE 2 OF 2011
JN NJAGI, J
DECEMBER 9, 2021
IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001
AND
THE CHILDREN (ADOPTION) REGULATIONS 2005
IN THE MATTER OF THE APPLICATION FOR ADOPTION BY SMK AND EWM**

RULING

1. The applicant's have filed an application dated 31st March 2011 seeking to adopt a child by name LN a.k.a BN. The back ground facts to the application are that the subject child was abandoned by her mother on 27th March 2006 and taken to Kabeta Police Station. The child was then referred to Nairobi Children's Home for protection and care when she was about 2 years old. Efforts to trace child's the parents were fruitless. The child was placed with the applicants for foster care on 22/2/2007 and has been under their care since then.
2. The following documents were filled in support of the application
 - (1) certificate from the Child Welfare Society of Kenya of declaring a child free for adoption.
 - (2) Home study report of the applicants prepared by the Child Welfare Society of Kenya.
 - (3) Agreement of foster parents dated 22/2/2007 between the applicants and Child Welfare Society of Kenya on placement of the child to the foster care of the applicants.
 - (4) Report of the County Co-ordinator for Children Services, Muranga.
 - (5) Statement of the applicants in support of an application for adoption order.



3. The 1st applicant is aged 74 years while the 2nd applicant is aged 62 years. Section 158 (1) (a)(i) of the *Children's Act*, 2001 provides that:

“An adoption order may be made upon the application of a sole applicant or jointly by two spouses where the applicant or at least one of the joint applicants –

(a) has attained the age of twenty-five years and is at least twenty-one years older than the child but has not attained the age of sixty-five years;”

4. Since the 2nd applicant is within the age limit allowed by the law there is no bar to the court making an order for adoption in favour of both applicants.

5. It is clear from the documents filed in support of the application that the subject child has been under the foster care of the applicants for the last 14 years. The child has bonded well with them. Her biological parents are not known.

6. The report of the Children's Officer indicates that the applicants have the financial ability to take care of the child. I find that the application for adoption is merited. I therefore make the following orders:

(1) That the court hereby makes an adoption order for SMK and EWM to adopt LN a.k.a BN.

(2) That consent of the matter to the child is hereby dispensed with as the mother is unknown.

(3) That consequent upon the said adoption the child shall be known as BNM.

(4) That the Registrar-General do make an entry into the Adoption Register in the prescribed form.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NYERI THIS 9TH DAY OF DECEMBER 2021

JESSE N. NYAGA

JUDGE

