



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**ADOPTION CAUSE NO.102 OF 2019**

**IN THE MATTER OF THE CHILDREN ACT NO. 8 OF 2001**

**AND**

**IN THE MATTER OF BABY EA**

**NN.....APPLICANT**

**JUDGMENT**

1. The Applicant herein NN(hereafter referred to as the Applicant)filed Originating Summons dated 23.1.2019 seeking authority to adopt Baby EA and to call him TDN (hereafter referred to as the child).
2. The Applicant is a single Adult Kenyan Citizen born on 29.9.1975.
3. The Applicant works as a [*particulars withheld*] earning a Salary of Ksh.600, 000/- per month.
4. The Applicant has attached medical report and certificate of good conduct which shows that she does not have a Criminal record or a health challenge.
5. The Applicant has one biological son aged four years and according to guidelines issued on 13.1.2010 which provides for special circumstances under which a female single Applicant can be allowed to adopt a male child she qualifies to be allowed to adopt a male child.
6. In the case of; **In Re Adoption of Baby JKM (2017 e KLR)**, Judge Achode allowed a female applicant to adopt a male child who was found abandoned somewhere in some village. The court took into consideration special circumstances as per the guidelines of the National Adoption Committee dated 13th January 2010 pursuant to Section 155 of the Children’s Act for a female applicant wishing to adopt a male child. The elements are particularized as hereunder:
  - (i) **When the child is a relative.**
  - (ii) **When the child has special needs and applicant is willing and has special capacity to take care of the child.**
  - (iii) **Where the applicant has adopted or has another biological child or children over whom she is willingly exercising parental responsibility.**
  - (iv) **Where the child being adopted has a sibling who is also adopted by the applicant.**
  - (v) **Where the applicant is the only person available to adopt the child and**
  - (vi) **Where the applicant is the legal guardian of the child or children appointed by will or in adoption proceedings and the parents dies or become permanently incapacitated.**
7. Similar position was held in the case of; **In Re Baby J.I (minor) (2013) eKLR** and **In Re G.W (baby) (2008) eKLR**.
8. The child was found abandoned on 29.3.2018 in a shamba near a foot path at Kirinyaga East within Njukiini Location, NgerweSub-location, Kiangoro Village and he was rescued by a Good Samaritan.
9. The matter was reported to Kianyaga Police Station Vide OB. No. [...] and the Police did a first letter dated 29.3.2018.

10. The Child was admitted at the New Life Home Trust on 29.3.2018 and on 28.6.2018 he was officially committed to the New Life Home Trust through the Children's Court at Gichugu vide Care and Protection Case No. 4 of 2018.
11. The Police did a final Report dated 15.10.2018 and the Child was declared free for adoption by Buckner Kenya Adoption Society vide Certificate No. [...]dated 26.10.2018.
12. The Child was released to the care of the Applicant on 23.12.2018 from New life Home Trust and Change Trust and the Agreement is attached dated 12.4.2018.
13. The Director Children's Services filed a report dated 28.10.2019 which recommends the Adoption.
14. The Change Trust Adoption Society also filed a report dated 12.4.2018.
15. The Guardian Ad Litem Report is dated 22.11.2019.
16. I find that the Applicant meets the criteria for adoption of the child and I grant orders as follows:

**(i) THAT the Applicant be and is hereby a granted authority to adopt Baby EA**

**(ii) That the child shall be named TDN**

**(iii) THAT the child shall be presumed a Kenyan Citizen.**

**(iv) THAT the Registrar General be and is hereby directed to enter this Order in the Adopted Children Register.**

**(v) THAT NN be and is hereby appointed legal guardian of the child incase of incapacity of the Applicant before the child attains the age of majority.**

**(vi) THAT the Guardian Ad Litem be and is hereby discharged.**

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 7<sup>TH</sup> DAY OF FEBRUARY 2020.**

**ASENATH ONGERI**

**JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.**