



In re Rectification of Particulars in the Birth Certificate of CC (Miscellaneous Application E289 of 2024) [2025] KEHC 14141 (KLR) (Family) (9 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14141 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS APPLICATION E289 OF 2024
H NAMISI, J
OCTOBER 9, 2025
IN THE MATTER OF REGISTRAR OF BIRTHS AND DEATHS
DEPARTMENT OF CIVIL REGISTRATION NAIROBI
AND
IN THE MATTER OF THE CHILDREN ACT NO. 8 LAWS OF KENYA
AND
IN THE MATTER OF RECTIFICATION OF PARTICULARS
IN THE BIRTH CERTIFICATE OF CHRIS CHEGE**

BETWEEN

**NNW APPLICANT
SUING AS THE NEXT FRIEND OF CC**

AND

**THE REGISTRAR OF BIRTHS AND DEATHS NAIROBI 1ST RESPONDENT
THE HON ATTORNEY GENERAL 2ND RESPONDENT**

RULING

1. Before the Court is Originating Summons dated 3 December 2024 seeking the following orders:
 - i. That the Birth Certificate of CC , a minor, serial number 149xxxx be rectified to remove the name of DGM as the father of the minor;
 - ii. That the cost of this application be in the cause.



2. The Application is supported by Affidavits sworn by the Applicant, the biological mother of the minor herein as well as DGM . The Application is premised on the grounds that:
 - i. The said DGM is not the biological father of the minor, CC .
 - ii. The name of the said DGM was inserted erroneously in the birth certificate of CC as the biological father of the said minor.
 - iii. It is important to rectify the said entry to reflect the true position and avoid misleading entries into the certificate of the minor
3. The minor was born on 1 December 2013. When the Certificate of Birth was issued, the same bore the names of the Applicant, as mother and DGM as father. A DNA test conducted later on revealed that DGM is not the biological father of the minor. The Applicant now wishes to have the name of DGM removed from the minor’s Certificate of Birth.
4. In his Affidavit, DGM confirms that the Certificate of Birth bears his name as the father of the minor. He avers that he knew the Applicant way after the birth of the minor. He confirms that he is not the biological father of the child and would like his name expunged from the record.
5. The 1st Respondent filed a Replying Affidavit sworn on 6 February 2025 in which they set out the various provisions of the law relating to the inclusion and removal of particulars from a Certificate of Birth. The 1st Respondent averred that unless DNA evidence was provided to prove that that DGM is not biologically related to the minor, then the Application ought not to be entertained.
6. The Applicant later provided a copy of DNA results dated 2 May 2025, conducted by the Government Analyst in Mombasa.
7. The 1st Respondent filed submissions dated 15 May 2025 in support of the Application. The Applicant did not file any submissions.

Analysis & Determination

8. Article 35 (2) and Article 53 (2) of *The Constitution* provide as follows:

35 (2) - “Every person has the right to the correction or deletion of untrue or misleading information that affects the person.”;

53 (2) – “A child’s best interest are of paramount importance in every matter concerning the child.”
9. Section 12 of the *Births and Deaths Registration Act*, Cap 149 Laws of Kenya provides as follows:

No person shall be entered in the register as the father of any child except either at the joint request of the father and mother or upon the production to the registrar of such evidence as he may require that the father and mother were married according to law or, in accordance with some recognized custom.
10. Section 7 of the *Children Act* provides as follows:
 - (1) Every child shall have a right to a name and nationality and, as far as possible, the right to know and be cared for by their parents.
 - (2) Every child has the right to be registered in the Register of Births immediately after birth in accordance with the *Births and Deaths Registration Act* (Cap. 149).



11. In re Baby LWW (Child) 2021 eKLR, the Court stated,

“The law guards the rights of a child jealously. To my mind this is because children are vulnerable members of our society and although they have parents, it is paramount that the law lends its hand in protecting them to ensure that they can enjoy the rights granted to them by the law. Starting with *the Constitution* of Kenya 2010 and the relevant statutes thereunder as well as the international instruments, it is evident that there is a common thread running through all these pieces of legal instruments to the effect that the best interests of the child is of paramount importance. Article 53 (1) (a) of *the Constitution* of Kenya 2010 provides that every child has the right to a name and nationality from birth; and under Article 53 (2), a child's best interests are of paramount importance in every matter concerning the child.....”

12. Pursuant to the provisions of section 8 of the *Children Act*, this Court must act in the best interests of the minor herein. It is in the best interest of the minor to have a name and an identity, which identity is informed by knowing one's parents and heritage. In this instance, it would be detrimental for the child to base his identity on incorrect information with respect to his paternity, as is currently contained in the Certificate of Birth. For that reason, it is in the minor's best interests that the name of DGM be deleted from the Certificate.

13. In the circumstances, I allow the Summons and make the following orders:

- i. The Registrar of Births and Deaths and the Department of Civil Registration is hereby directed to delete, remove, strike out and /or correct from the Register and the minor's Certificate of Birth serial Number 149xxxx the name of DGM as his father;
- ii. Upon such deletion, removal, striking out and/or correction of the Minor's Certificate of Birth serial number 149xxxx , the 1st Respondent do reissue the minor with a Certificate of Birth which does not bear the name of DGM or any other person as the father of the minor.
- iii. Owing to the nature of the case, I make no orders as to costs.

DATED & DELIVERED AT NAIROBI THIS 9 DAY OF OCTOBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Applicant: N/A

For 1st Respondent: N/A

For 2nd Respondent: N/A

Court Assistant: Lucy Mwangi

