



REPUBLIC OF KENYA



KENYA LAW
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**In re EK (Minor) (Adoption Cause E016 of 2023)
[2025] KEHC 5134 (KLR) (25 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 5134 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E016 OF 2023**

RC RUTTO, J

APRIL 25, 2025

IN THE MATTER OF

PMW APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 7th June 2023, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. That the court dispense with the requisite consent of the biological parents of the infant;
 - ii. That the Applicant be granted an adoption order to adopt Baby EK minor of the male sex;
 - iii. That the Director Immigration Department be ordered to issue a Kenyan Passport to Baby EK in a manner that the names appear in the infant's Birth Certificate
 - iv. That the Registrar General do make the appropriate entries in the Adopted Children's Register in respect of Baby Emmanuel Kyama;
 - v. That the court does issue such other orders as may be necessary in the best interests of the child
2. The matter was canvassed by way of viva voce evidence.
3. The evidence on record indicates that the child in this matter was born in Machakos, Katitu dispensary on 24th October 2013 to JMW. Regrettably, as per the Death Certificate Entry No. 01XXXX the child's biological mother passed on 17th August 2016. The father of the child remained unknown. The child is currently 11 years old and enrolled in school. He has been residing with his maternal grandmother Agnes Munini Wambua who has consented that the minor be adopted by the Applicant.
4. The Applicant, P.W.M is a single applicant, a Kenyan citizen aged 41 years old as evidenced by a copy of her national identification card number 23XXXX. She is of Christian faith currently residing and working for gain in the United States of America. She is a sister to the minor's biological mother.



5. The applicant wishes to adopt the minor on the basis that she is the minor's aunt and since the mother's death she has been taking care of him and have developed a close relationship equal to a mother-son relationship. In her Statement in support of the Application she states that she professes the same faith as the minor, is physically, emotionally, financially and fully competent to take care of the infant.
6. The Applicant presented copies of her Mpesa Statements, recommendations and referee information, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose first that the extended family has agreed to have the applicant adopt the minor; and secondly that the Applicant is financially, socially, physically and mentally fit to adopt the child. The Applicant also confirmed that she fully understands and is ready for the implications of an Adoption order. She confirmed that she had been taking care of the minor.
7. Additionally, pursuant to section 195 of the *Children Act*, the Applicant provided consents from the minor maternal grandmother AMW as well as her other siblings JNM, CKW and TM all agreeing to the adoption; Applicant's sister JNM and her husband JMM, agreeing to be appointed as the legal guardian of the child in the event of the applicant's incapacitation.
8. Prior to the hearing of the adoption application, KKPI Adoption Society prepared and filed a report dated 20th March 2024 and issued a freeing certificate serial No 967 declaring the child free for adoption as evidenced by the copies of report and certificate declaring a child free for Adoption attached to the application.
9. The guardian ad litem Ms JNM appeared before court and provided a favourable report and recommended the adoption of the child by the Applicant. The Directorate of Children's Services, Machakos Sub-County filed its report dated 14th January 2025, recommending the adoption of the child by the Applicant herein for reasons that the child stands to benefit from the opportunities provided by becoming the son of the Applicant and that the Applicant has fulfilled the statutory requirements.
10. From evidence on record the applicant is physically and emotionally fit and healthy to parent and provide guidance to the child as evidenced by copies of her medical reports attached to the application. She is financially stable and able to provide fully for the child's need as evidence by copies of her financial documents attached to the application. The applicant stated that she has no previous or pending criminal record or prosecution as evidenced by her police clearance certificate attached to the application.
11. I do note that this is a Kinship adoption, Section 193(1) of the *Children Act* provides that kinship adoption order may only be made in favor of a relative of the child. In this instance, the Applicant is a maternal aunt to the minor and has fulfilled all the legal requirements relating to the adoption of the child. Further, she has been approved as a prospective adoptive parent by a duly registered Adoption Society and as well as the Department of Children Services, thus she is able to handle the parental obligations effectively. The consent of biological parents was dispensed with since the mother is deceased and the father remains unknown.
12. Having examined and evaluated the evidence herein vis a vis the best interest of the child as required in Article 53 (2) of *the Constitution* and Section 8 the Children's Act, 2022, I find that the best interest of the child is to be adopted by the Applicant since the child will continue to be within the family. Accordingly, the Originating Summons dated 7th June 2023 is allowed and the following orders are hereby issued:
 - i. The Applicant, PMW is hereby authorised to adopted the child currently known as EK;



- ii. The Registrar General is directed to enter this Order in the Adopted Children's Register and to issue a Certificate to that effect;
- iii. The Guardian *ad Litem* is hereby discharged;
- iv. CKW and JNM are hereby appointed as the legal guardians of the child EK.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 25TH DAY OF APRIL, 2025.

RHODA RUTTO

JUDGE

In the presence of;

Sam Court Assistant

.....for the Applicant

