



REPUBLIC OF KENYA



KENYA LAW
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**In re NN (Minor) (Adoption Cause E021 of 2023)
[2024] KEHC 3103 (KLR) (29 February 2024) (Judgment)**

Neutral citation: [2024] KEHC 3103 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
ADOPTION CAUSE E021 OF 2023**

MW MUIGAI, J

FEBRUARY 29, 2024

IN THE MATTER OF

JNK APPLICANT

JUDGMENT

1. The Applicant herein, JNK – ID. Number XXXXXX (“the Applicant”) sought by her application to be allowed by this Court to adopt NN (hereafter “the child”).
2. Vide Originating Summons application dated 28/08/2023 the Applicant sought among other orders; that the Applicant herein JNK be authorized to adopt NN (child) who is to be known as NNNN; that AKK and RJC be appointed as the Legal Guardians of the child in the event of the death or incapacity of the Applicant before the child is of full age and fully self-reliant; that the Director of Immigration be authorized to issue the child with a Kenyan Passport; The Applicant herein further sought orders; that MKK of Identification Number 13639157 be appointed as the Guardian Ad Litem in this cause and that this Court directs the Director of Children’s Services, Ministry of Labour, Social Security and services investigate the Applicant fitness to adopt and file a report. MKK of ID No.XXXXXXX was appointed by this Court as the Guardian Ad Litem on 23/10/2023.
3. The child (NN) the subject of the present adoption proceedings was born on 25th February, 2010 at Igena Sub-location within Migori County. She is the daughter of the late CWK. The child’s Mother CWK passed on 10th August 2022 vide death certificate Serial No.XXXXXXX (burial Permit and the death certificate attached).
4. The late was the 3rd born child of the Applicant herein Jean Nyamahemba Kariuki. The Applicant has been living with the child and her late mother since 2017 and continued to live with the child after the child’s mother passed away in 2022. The Applicant reached out to Little Angels Network with the intention of adopting her granddaughter and the child has since been declared free for adoption vide Certificate Declaring Child Free for Adoption Serial No.XXXX.



5. The Applicant herein JNK is a resident of Athi River within Machakos County. The Applicant is a single mother of 4 biological children. The Applicant was married to one Nicholas Kariuki but they later separated in 2010. She filed for divorce in 2018 and a Decree Nisi issued 18/09/2018. The Applicant and her ex-husband had four (4) children namely (a) VN – 38 years, (2) AKK – 36 years, CWK – deceased – (the child’s mother in these proceedings) and Wycliff Waiguru – 30 years.
6. Pursuant to the Children Act, Kenya Children’s Home Adoption Society, the relevant Adoption Society, prepared and filed in Court a favorable report in respect of the proposed adoption of the child by the Applicants.
7. The Guardian Ad Litem, MKK of ID No. XXXXXX a Social Worker filed the statutory Report in which she noted that the proposed adoption of the child by the Applicant would be in the best interests of the child.
8. The Little Angels Network Kenya did not file their comprehensive report in support of these proceedings but had filed several other documents in support of these proceedings as follows:
 - a. Written consents from the biological children of the Applicant namely: AKK, VN and WKW.
 - b. Police clearance form for the Applicant
 - c. Financial statements for the Applicant
 - d. Ownership documents
 - e. The Applicant medical Reports
 - f. The child consent
 - g. Consent to give up a child for adoption from the maternal grandfather
9. The Director of Children’s Services filed their report dated 02/02/2024 in respect of the proposed adoption of the child by the Applicants. Emily Kimanzi the Machakos Sub County Children Officer appeared in Court on 8/02/2024 in respect of the proposed adoption of the child by the Applicants. She told the Court that the child is from a single parent and needs a family. The Applicant who is the child’s grandmother has been taking care of the child even when the child’s mother was alive.
10. Similarly the Report indicated that during the home visits it was observed that the Applicant lives in her own 3 bedroomed house in River Park Estate which she bought in 2016. The Applicant lives with the N – the child herein and a nanny who help with domestic chores. The Applicant is financially stable – financial statements attached. She also owns 2 houses at Syokimau, a vehicle and another 5 bedroomed house in Nakuru (documents of ownership attached). The Applicant’s three biological children; AKK, VN and WKW are in full support of the process and have given their written consents. The Applicant further states that her motivation to adopt her granddaughter is to fill the gap that her mother left when she passed on. The Applicant’s three surviving biological children are in full support of the process and have given their written consents. The Applicants is willing to educate the minor to the highest level of education and will be entitled to inherit the Nakuru property and the house at River Park. They recommended the adoption.
11. According to the minor (NN) she has no objection to the arrangement to have her adopted by the Applicant since she is her grandmother who has been taking care of her since the passing on of her mother. She said the Applicant loves her and provides for all her needs. The Applicant’s children who are the child’s uncles and aunts have also embraced and loved her and she is happy to become a part of the family.



12. The Guardian Ad Litem, MKK of ID No. XXXXXX filed her Report dated 26/11/2023 and filed in Court on 7/02/2024 in support of these Adoption proceedings. She appeared in Court on 8/02/2024. She told the Court that she visited the Applicants and observed that the child and the grandmother have bonded very well and the grandmother is ready to take full responsibility of the child. Similarly the report indicated that during the home visits it was observed that the child feels safe and peaceful and she loves the prospective mother as she has taken the responsibility of taking care of her and has made sure she is part of the family. The Applicant is financially stable hence able to provide for the child. The Guardian Ad litem recommended the adoption.
13. The Legal Guardians AKK and RJC - of Identification Card Numbers XXXXXX and XXXXXX respectively are a son and daughter in law to the Applicant. They each filed their Affidavit of Consent to be appointed as Legal Guardians sworn on 11/09/2023. They stated that they are aware that their role entails responsibility over the child herein concerning her support, care, education, health and welfare in the event of the Applicant's death or incapacity before the child attains the age of majority.
14. The Court considered the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the adoption of the child. This Court has evaluated the facts of this adoption. This is a kinship adoption. It is evident that the Applicants has fulfilled all the legal requirements relative to the adoption of the child.
15. The home visits by the Guardian ad Litem, the Adoption Society Representative and the Director of the Children's Services established that the Applicant is financially and socially stable and have emotional capability to provide for the upkeep and education of the child and give parental care. This Court considers the Applicant and child a kinship adoption the grandmother has lived and taken care of the child even when her mother (Applicant's daughter) was alive. The Applicant has been and continues to be for all practical purposes the child's parent. This Court grants the kinship adoption.

Disposition

16. On the basis of a careful examination of the documents presented before this Court as well as the observations made therein, this Court has formed the opinion that it would be in the best interest of the child to be adopted by the Applicant. Hence, this Court allows the Applicant's application.
17. The Applicant, JN is hereby allowed to adopt child NN on condition;
The Adoption Agency Little Angels Network file a Report and/or appear in Court as the Certificate Freeing the child for Adoption and documents about the Applicant are only filed. The Adoption Agency to regularize the matter within 30 days.

JUDGMENT DELIVERED SIGNED & DATED IN OPEN COURT AT MACHAKOS THIS 29TH DAY OF FEBRUARY, 2024 (PHYSICAL/VIRTUAL CONFERENCE).

M. W. MUIGAI

JUDGE

