



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
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**In re Baby KCY (Child) (Adoption Cause E001 of 2023)
[2024] KEHC 3109 (KLR) (18 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3109 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
ADOPTION CAUSE E001 OF 2023
JK SERGON, J
MARCH 18, 2024
IN THE MATTER OF THE CHILDREN ACT (NO. 29 OF 2022)
AND
IN THE MATTER OF THE ADOPTION OF BABY KCY (CHILD)**

IN THE MATTER OF

DC APPLICANT

RULING

1. Before the court is the originating summons dated 24th July, 2023 by which the applicant seeks the following orders;
 - i. Spent
 - ii. Spent
 - iii. That the Applicant DC be authorized to adopt the female child currently identified and known as Baby KCY (Child).
 - iv. That MC of Post Office Box No. xxx, Litein and who is the applicant's sister, be appointed as guardian to take care of the interests of the minor should any misfortune befall the Applicants.
 - v. That the child be declared a Kenyan citizen.
 - vi. That the Registrar General does make appropriate entries in the Adopted Children's Register.
 - vii. That the court does issue such further orders and directions as are in the interest of justice.
2. The application is supported by an affidavit sworn by DC the Applicant herein and a statement in support of the application for an adoption order by the Applicant.
3. The Applicant is a female sole applicant, desirous of adopting the child herein, the child is her niece.



4. The Applicant is a Kenyan working in the State of Indiana, she is an employee of Gale Healthcare Solutions, she earns a daily income of 130.29 USD and is therefore possessed of sufficient economic means to take care of the child.
5. The Applicant applied for adoption on 22nd November, 2022 through the Kenya Children's Homes, an Adoption Society incorporated under the Children Act, pursuant to the said application, child placement was considered and approved by the Adoption Society and subsequently the child was committed to her care.
6. The Applicant took physical custody of the child and assumed parental responsibility to the date of this instant application. The Applicant abided by the terms and conditions of the care agreement.
7. The Applicant avers that she has been advised by her advocates on record that she meets the requisite qualifications for grant of an adoption order and attached an adoption bundle, which bundle is clearly marked and itemized.
8. The child was born on 4th November, 2015 to the late NCK at St. Mary's Mission Hospital in Nairobi. The late NCK gave birth to the child out of wedlock and the child's father's whereabouts remain unknown to the family to date.
9. After her mother's death the minor remained under the care of her maternal aunt MC with the help of the applicant herein. The family held a meeting to discuss the welfare of the minor herein and it was unanimously agreed that the minor should be adopted by her maternal aunt DC, the applicant herein, as she is in a position to accord the minor parental care which she has continued to do. The child's maternal grandfather JKK therefore wishes to offer his granddaughter for adoption to his daughter DC, the applicant herein, as she has been taking care of her since the demise of her mother, meeting all her needs appropriately. The applicant herein merely wants to legalize the relationship between herself and the child.
10. The child's maternal grandfather JKK approached the Kenya Children's Home Adoption Society where he made clear his intention of offering his granddaughter for adoption. He was counselled at length and taken through a memorandum titled, "Adoption For Children Explanatory Memorandum for Biological Parents/Guardians Offering Child/Ren for Adoption" which he understood and signed the "Certificate of Acknowledgment" as a confirmation of his understanding of the said memorandum. On 23rd December, 2022 he swore and signed an affidavit before a Commissioner for Oaths in Litein thereby giving the final consent towards this adoption.
11. The child was declared free for adoption on 15th February, 2023 *vide* Certificate Serial No.xxxx issued by Kenya Children's Home Adoption Society.
12. The Department of Children Services filed a report dated 5th December, 2023 and recommended the adoption.
13. I have considered the originating summons filed herein dated 24th July, 2023, the affidavit, the adoption bundle annexed and filed in support of the application for adoption. I find that the applicant is a suitable person to take charge of the child and safeguard her interests and that the adoption herein will serve the best interest of the child.
14. In deciding upon any matter involving a child, courts are obliged to give priority to the best interests of the said child, section 8 (1) of the [Children Act](#) No. 29 of 2022 provides as follows;

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies—



(a) the best interests of the child shall be the primary consideration;”

15. I hereby allow the originating summons dated 24th July, 2023 in the following terms;

- i. That the applicant herein be and is hereby authorized to adopt the child, KCY.
- ii. That M.C be and is hereby appointed the Legal Guardian of the child to take care of the interests of the minor should any misfortune befall the Applicant.
- iii. That the Guardian *Ad Litem* be and is hereby discharged.
- iv. That the child is hereby declared a Kenyan citizen.
- v. That the Registrar General be and is hereby directed to register this adoption in the Adopted Children’s Register. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 18TH DAY OF MARCH, 2024.

.....

J.K. SERGON

JUDGE

In the presence of:

C/A Rutto

No Appearance

