



**In re B (Child) (Adoption Cause E017 of 2023)
[2024] KEHC 8057 (KLR) (28 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 8057 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E017 OF 2023
A MSHILA, J
JUNE 28, 2024
IN THE MATTER OF THE CHILDREN’S ACT
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION ORDER OF B (A CHILD)**

IN THE MATTER OF

FK 1ST APPLICANT

DAO 2ND APPLICANT

JUDGMENT

1. The application is brought by way of an Originating Summons and is dated the 15th June, 2023 and is premised under the provisions of Sections 183 of the *Children’s Act* 2022 and Article 53(2) of the *Constitution* 2010 and all other enabling provisions of the Law. The Applicants seek the following Orders;
 - a. That SAO be appointed as Guardian Ad Litem of BABY B;
 - b. That the Applicants FK and DAO be authorized to legally adopt BABY B who will be known as NABK;
 - c. The Registrar General do make the appropriate entry of NABK in the Adopted Children’s Register.
2. The application was supported by a Statement and Affidavit made by the Applicants; The Guardian Ad Litem SAO was appointed on the 20th September, 2023; This court directed the Director of Children’s Services and the Guardian Ad Litem to carry out a home visit and do investigations and to file their Reports.
3. After visiting and interrogating the Applicants the Githunguri Sub- County Children’s Officer filed an undated Report on the Applicants suitability to adopt Baby B whereas the Guardian Ad Litem did



not file any Report. The Report prepared by the Githunguri Sub-County Childrens Officer was duly filed in court on the 28/11/2023 was in-depth and was favourable and recommended the adoption of Baby B by Applicants and made no reference to the short comings in the adoption process;

4. This adoption process has both Local and Inter-Country dimensions as the 1st Applicant is a Sierra Leonian by nationality and is married to the 2nd Applicant who is a Kenyan Citizen, hence this matter is affected by the Cabinet moratorium in place on inter-country adoption that was imposed on 26th November, 2014 which is yet to be lifted.
5. Counsel for the Applicants presented written submissions and relied on two authorities where an inter-country adoption had been granted by the court; this court opines that the only distinguishable factor is that the authorities cited relate to a kinship adoption whereas in this instance none of the prospective parents have any relationship to the minor.
6. For the reasons stated above this court is not satisfied that all the legal requirements have been adhered to notably that at the time of filing this application the 1st prospective adoptive parent being the 1st Applicant had citizenship of Sierra Leone;
7. Upon perusal of the Originating Summons it is noted that the Applicants did not make any provision for a next of kin or legal guardian in their application;
8. The Applicants having not fulfilled all the pre-requisites for the adoption orders it would therefore not be prudent nor in the best interest of the minor to allow the application; Hence the application for adoption is hereby disallowed;

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 28TH DAY OF JUNE, 2024.

HON. A. MSHILA

JUDGE

In the presence of;

Mourice – Court Assistant

Muhaya – h/b for Omari – for Applicants

