



REPUBLIC OF KENYA



KENYA LAW
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**In re BN (Minor) (Adoption Cause E025 of 2023)
[2024] KEHC 8059 (KLR) (28 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 8059 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
ADOPTION CAUSE E025 OF 2023**

**A MSHILA, J
JUNE 28, 2024**

IN THE MATTER OF

**BMG 1ST APPLICANT
GWM 2ND APPLICANT**

JUDGMENT

1. The application is brought by way of an Originating Summons and is dated the 1st day of August, 2022 and is premised under the provisions of Sections 183, 184, 185, 186, 194, 200, 201 and all other enabling provisions of the Children’s Act. The Applicants seek the following Orders;
 - a. That TWW be appointed as Guardian Ad Litem of Baby BN;
2. That the Applicants BMG And GWM authorized to legally adopt Baby BN who will be known as Maxwell Maina Gatu;
 - b. That Baby BN be presumed to be a Kenyan citizen;
 - c. FKM and PMK appointed as next of kin and legal guardians to Baby BN;
 - d. The Registrar General do make the appropriate entry of MMG in the Adopted Children’s Register.
3. The application was supported by a joint statement and Affidavit made by the Applicants; The Guardian Ad Litem TWW was appointed on the 17th January, 2024; This court directed the Children’s Services Officer and the Guardian Ad Litem to carry out a home visit and do investigations and to file their Reports.
4. After visiting and interrogating the Applicants the Thika Sub-County Children’s Office and the Guardian Ad Litem filed their respective Reports on the Applicants suitability to adopt baby BN; the reports were duly filed in court and are dated 20th April, 2024 and 10th February, 2024 respectively; both reports are highly favourable to the Applicants and recommend their suitability as adoptive parents.



5. The baby who is male was abandoned on the 6/11/2014 at Kikuyu Police Station by his mother who is said to be mentally challenged. The case of abandonment was booked vide OB No.44/19/11/2014; tracing of the minors relatives was done by Child Welfare Society by placing an advert in the Peoples Newspaper on 6/08/202; further tracing was done at Mama Lucy Kibaki Hospital where the minor was born, but it bore no fruits as no information was forthcoming;
6. The baby was on 6th November, 2014 admitted to Angel Centre for Abandoned Children, for temporary shelter, care and protection whilst awaiting committal; under the Protection and Care Case No. 372 of 2022 the Children's Court sitting at Nairobi baby BN was formally committed vide Order issued on 15th July, 2022 to the aforesaid institution for protection and care. On the 11/11/2022 a Certificate No.XXXX was issued by Adoption Change Trust declaring the minor free for adoption.
7. After reading and taking into consideration the contents of these Reports and the court was satisfied that all the legal requirements had been adhered to notably; the Applicants are Kenyan citizens and they solemnized their marriage on 11th August, 2001 at Thika Christian Church as evidenced by the copy of the attached Certificate of Marriage Serial No.XXXX; at the time of filing this application the prospective adoptive parents BMG was aged 51 years whereas GWM was aged 50 years and therefore both their ages fall within the prescribed legal parameters; The Applicants have no biological children of their own but are in the process of adopting another male child; Both prospective parents are engaged in private business and have produced into court copies of Title documents and Bank Statements to prove their financial capability to support Baby BN when they assume responsibility of his upbringing.
8. The Certificates of Good Conduct are current and valid and this court is satisfied that there are no adverse circumstances discernible from the families of the Applicants or any individual characteristics or lifestyle that would be detrimental to the minor;
9. Baby Bilal Njuguna being a child aged over nine (9) years is required by law to add his voice to the adoption process and this he did by writing letter acceding to the adoption application by the Applicants; the minor appeared in court with the prospective parents and this court had an opportunity to interrogate him and took cognizance of his happy demeanour.
10. It is noted that the consents of the proposed Legal Guardians have been duly filed.
11. For the reasons stated above this court is satisfied that the Applicants have fulfilled all the pre-requisites for adoption orders and are found to be suitable persons to adopt Baby BN and this court is further satisfied that the order for adoption will be in the best interest of the minor.

Findings & Determination

12. For the forgoing reasons this court finds that the application for adoption has merit and it is hereby allowed;
13. The Applicants are hereby authorized to adopt baby BN; he shall be known as MMG.
14. That MMG be presumed to be a Kenyan citizen;
15. The Registrar General is hereby directed to enter this adoption order of MMG in the Adopted Children's Register; the Registrar Births and Deaths is hereby directed to issue a Certificate of Birth in the name MMG.
16. The Guardian Ad Litem is hereby discharged and FKM and PMK be appointed as next of kin and legal guardians to Baby BN until the minor attains the age of majority of eighteen (18) years.



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

Applicants present in person

