



**In re Adoption of Baby J (A Child) (Adoption Cause E011 of 2024)  
[2025] KEHC 3378 (KLR) (19 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3378 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT EMBU  
ADOPTION CAUSE E011 OF 2024  
RM MWONGO, J  
MARCH 19, 2025  
IN THE MATTER OF THE CHILDREN ACT CAP. 141 OF THE LAWS OF KENYA  
IN THE MATTER OF THE ADOPTION OF BABY J (A CHILD)**

**IN THE MATTER OF**

**GWJ ..... APPLICANT**

**JUDGMENT**

**The Application**

1. By undated originating summons, the applicant is seeking the following orders from this court:
  1. That she be authorized to adopt Baby J;
  2. That the consent of the biological parents be dispensed with since the child was abandoned;
  3. That upon making the adoption order, the child be known as NWW;
  4. That the Registrar General do make the appropriate entry of NWW in the Adopted Children's Register;
  5. That the child NWW be presumed to be a Kenyan citizen born in Kenya; and
  6. That LWI be appointed Legal guardian of the child NWW.
2. The originating summons was accompanied by a statement by the applicant in support of the application. She stated that she is a self-employed resident of Embu County who has no biological children. She has not been convicted on any offence listed in the 3<sup>rd</sup> schedule of the Act and she has a Police Clearance Certificate to show for this. It was her statement that she has not given or received money in exchange for consideration of adoption. That she is desirous of adopting Baby J and once this order is issued, the name of the child be changed to NWW and entered as such into the register of adopted children.



### **The Applicant's Background**

3. The applicant is a 48-year-old female who is unmarried. She lives and works in Embu County where she also runs her own business. She has not been blessed with any biological children despite medical interventions. She opted to adopt a child and she was pleased to choose Baby J in 2021 with whom she has lived and fostered to date. The child was declared free for adoption on 29<sup>th</sup> October 2020.
4. A home visit with the applicant in Blue Valley in Embu revealed that her house has 2 bedrooms, a living room, dining area and kitchen. It is well serviced with running water and electricity. The home is enclosed in a compound secured with a gate, thus, it is conducive for raising a child.
5. The applicant is a cooking gas vendor and this business fetches her a decent income to cater for her needs and those of the child. She has put enrolled the child at one of the private schools in Embu. She understands her obligations and responsibilities as an adoptive parent.

### **Background of the Child**

6. On 06<sup>th</sup> July 2017, Baby J was presented at Tassia Police Post after being found abandoned in a vacant room in Tassia Mabatini Area. The case was booked and the police notified the Child Welfare Society of Kenya (CWSK). Through a court order issued on 3<sup>rd</sup> April 2019, the CWSK arranged for placement of the child at Mama Ngina Kenyatta Children's Home for a period of 3 years.
7. The child appeared in Taifa Leo local newspaper notices on 21<sup>st</sup> January 2018, 4<sup>th</sup> March 2018 and 13<sup>th</sup> May 2018 published in a bid to find her parents but these efforts did not bear fruit. She was taken up by the applicant for fostering in 2021. The child is above six (6) weeks old and below 18 years. This is the statutory requisite age bracket for a child to qualify for adoption under Section 184 (1) of the [Children's Act](#).

### **Guardian Ad Litem**

8. The application was accompanied by undated Chamber summons seeking that PWM be appointed as Guardian ad litem. The application was allowed through an order of the court issued on 12<sup>th</sup> February 2025 and PWM was appointed Guardian ad litem in accordance with section 188(1) of the [Children Act](#). The court also ordered that the Secretary of Children's services files a home study report and the appointed Guardian ad litem file her report on Baby J.

### **Report by the Guardian ad litem**

9. In accordance with section 188(2)(b) of the [Children Act](#), the Guardian ad litem filed a confidential report dated 18<sup>th</sup> February 2025 in court. In it, she confirmed her understanding of the case and highly recommends the applicant as an adoptive parent to the child. The applicant and her family are well known to her. According to her, the applicant and her extended family members relate very well with the child.

### **Report by the Secretary, Children Services**

10. Section 184(4) of the [Children Act](#) requires that the Office of the secretary of Children Services shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings. In compliance with this provision, a report dated 17<sup>th</sup> February 2025 was filed. The report stated that the applicant is financially stable and following a home visit, it was established that she lives in a safe and comfortable home which is conducive for raising the child. The report also details that the applicant understands her obligations as an adoptive parent according to the [Children Act](#). The



child has bonded well with the applicant and her family. The applicant is committed to providing for the best interest of the child.

### **Suitability of the Applicant for Adoption**

11. Section 186(1) and (2) of the *Children Act* provides for who may adopt a child, as follows:

- “(1) The Court may make an adoption order on application by—
- (a) a sole applicant; or
  - (b) two spouses jointly.
- (2) The Court shall not make an adoption order in any case unless—
- (a) the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
  - (b) the applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.”

12. The applicant fulfills the conditions set in these provisions since she is a sole applicant who is within the allowable age bracket and is 25 years older than the child. She is also a Kenyan citizen; therefore, it is a local adoption.

### **Best Interest of the Child**

13. A child’s best interests are of paramount importance in every matter concerning the child. This is the dictate of Article 53(2) of the *Constitution*. Section 4(2) of the *Children Act* also elevates the best interest of the child and provides:

“Despite subsection (1), a provision in another legislation on children matters may prevail if it offers a greater benefit in law to a child.”

### **Report of the Child Adoption Society**

14. Section 185(2) of the *Children Act* requires that an application for adoption be supported by a report of a duly registered adoption society. In this case the CWSK filed a detailed report dated 12<sup>th</sup> February 2025 regarding Baby J, together with a certificate declaring the child free for adoption in accordance with section 156(1) of the *Children Act* and the Adoption Regulations. These documents were presented in compliance with Section 187(2) and 185(4)(b) of the *Children Act* given the circumstances of the case being abandonment. The report recommended that it was in the best interest of the child to give her up for adoption.

### **Conclusion and Disposition**

15. The documentation presented in court regarding the adoption of Baby J qualifies her adoption by the applicant. The applicant also meets the legal requirements required to enable her to adopt the child.

16. In this court’s view, it is in the best interest of the child that she be adopted by the applicant.

17. Accordingly, the prayers sought are granted as follows:

- 1. This adoption is deemed to be a local adoption;
- 2. The applicant be and is hereby authorized to adopt Baby J;



3. The consent of the biological parents is hereby dispensed with since the child was abandoned;
4. Hence forth, Baby J shall be known NWW;
5. The Registrar General shall make the appropriate entry of NWW in the Adopted Children's Register;
6. The Registrar shall issue to the applicant a certified copy of the entry pursuant to Order 4 herein the Adopted Children Register, upon payment of the prescribed fee;
7. The child NWW is presumed to be a Kenyan citizen born in Kenya;
8. The Guardian ad litem is hereby discharged; and
9. LWI is hereby appointed Legal guardian of the child NWW.

Orders accordingly

**DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 19<sup>TH</sup> DAY OF MARCH, 2025.**

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**R. MWONGO**

**JUDGE**

Delivered in the presence of:

1. Grace Wangari - Applicant
2. Peris Wanjiru Mwaniki – Guardian Ad Litem
3. Francis Munyao - Court Assistant

