



**ACM (Adoption Cause E228 of 2024)
[2025] KEHC 5540 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5540 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E228 OF 2024

PM NYAUNDI, J

MAY 2, 2025

IN THE MATTER OF THE CHILDRENS ACT 2022

IN THE MATTER OF

ACM APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 3rd October, 2024 the Applicant herein seeks the following orders, that:-
 - i. She be allowed to adopt the Baby RA a minor who is to be known as KK and the Registrar general be directed to enter this adoption into the register of Adoptions.
 - ii. AMK and PCK be appointed as the legal guardians of the minor who shall be presumed to have been born in Kenya.
2. The Applicant is a Kenyan Citizen, is single and residing in Nairobi County. She is in gainful employment and works as a Sales Consultant at [Particulars Witheld] Company in Nairobi Kenya. She has had custody of the child since 3rd November, 2023. The child is 2 years, 2 months. She does not have biological children. She has always desired to have a child. She has the means to provide for the needs of the child. She understands the legal implications of the adoption order, she is aware that the child will have full rights as would a biological child and the order is not reversible.
3. Baby RA is presumed to have been born on 24th December, 2022. She was found abandoned on 25th December, 2022 within Langalanga Area in Bondeni by RK. He made a report at Bondeni Police Station vide OB Number 23XXXX2022 . The minor was placed at New Life Home Trust Nakuru and admitted same day vide admission number 1X7/2XX2 for care and protection. The Chief Magistrate Court sitting in Nakuru committed the child to New Life Home Trust Nakuru vide P&C



File E0532023. Subsequently, Nakuru Police Station issued a final letter dated 7th September, 2023 confirming that efforts to trace the relatives were futile.

4. Little Angels Network, on 11th October 2023, declared the child free for adoption Vide certificate serialized as OXXXX4 and on 3rd November, 2023 the minor was placed with the Applicant for care and fostering pending adoption.
5. PMS was appointed on 7th November, 2024 as the child's guardian ad litem, by this Court and along with the Director of Children's Services directed to investigate and file their respective reports within 45 days.
6. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant has recommended that this Court allows the Applicant to adopt the child. Winfred Ikinya, Assistant Director Children's Services submitted a report dated 24th February, 2025 where she averred that the Applicant has bonded well with the child, they enjoy a mother-daughter relationship. The child also bonded well with the Applicant's extended family. The Applicant has met all the legal requirements for adoption as provided in the *Children Act*, 2022. She also averred that the Applicant is mentally and physically healthy as well as devoid of any criminal records as per annexed Police Clearance Certificates Number PCC-ZXXXXXXW. She is financially stable thus recommending the Applicant to adopt the child.
7. A favourable report was also submitted by PMS, Guardian Ad Litem, she observed that the Applicant loves and cares for the child. Again the Applicant's extended family members have bonded fully with the child hence recommending the adoption of the child as it would be in the best interest of the child.
8. The proposed Legal Guardians AMK and PCK testified in Court. AMK is the brother to the Applicant while PCK is the sister- in law to the Applicant. They consented to the adoption process. They understand what the role entails in the event circumstances demand, they will take on full parental responsibility.
9. The minor was present in Court and the Court observed that although she was unable to communicate she is at home with the Applicant and appears comfortable.

Determination.

10. After carefully assessing the records herein, I am satisfied that the Applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the *Children Act*, 2022 provides. The Court may make an adoption order on application by-
 - (1) (a) Sole applicant; or
 - (b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
 - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.



11. This Court is alive to the jurisdiction of the High Court vide Article 165 *Constitution* of Kenya 2010 and Section 183(1) *Children Act* 2022. The Court is conscious of the law; Article 53 *Constitution* of Kenya 2010, Section 8 of *Children Act* 2022 and the *UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child* all amplify on the best interests of the child.
12. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Local Adoption as required under Section 193 of the *Children Act*, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the *Children Act* Cap 141 of the Laws of Kenya. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
13. Article 14 (4) of the *Constitution* of Kenya 2010 provides that: -

“(4)A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by Birth.”
14. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with orders that;
 - a. The Applicant ACM is hereby allowed to adopt Baby RA (Minor).
 - b. Henceforth, the child shall be known as KK.
 - c. Her date of birth shall be 24TH December, 2022, place of Birth Nakuru
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. AMK and PCK are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register.
 - g. The Registrar General is hereby directed to issue the child with Birth Certificate.
 - h. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - i. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 2ND DAY OF MAY, 2025.

P. NYAUNDI

JUDGE

