



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby MA (Adoption Cause E229 of 2024)
[2025] KEHC 7005 (KLR) (Family) (23 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7005 (KLR)

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

FAMILY

ADOPTION CAUSE E229 OF 2024

PM NYAUNDI, J

MAY 23, 2025

IN THE MATTER OF THE CHILDRENS ACT 2022

AND

IN THE MATTER OF BABY MA

IN THE MATTER OF

MWG APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 17th October, 2024 the Applicant herein seek the following orders, that:-
 - i. Be allowed to adopt the BABY MA a minor who is to be known as MG and the Registrar general be directed to enter this adoption into the register of Adoptions.
 - ii. GPIK and LWI be appointed as the legal guardians of the minor who shall be presumed to have been born in Kenya.
2. In the course of the hearing the applicant requested to amend prayer (ii) of the originating summons and replace the proposed Legal Guardian to be GWL. The application was allowed.
3. The Applicant is a single Kenyan Citizen residing in Murang'a County. She was married between 2009 and 2012 but the marriage broke down irretrievably as it did not bear any issue. She is a retired teacher thus having savings and investments to cater for the needs of the child herein. She is also a poultry farmer. She has had custody of the child since 8th March, 2023. The child is 10 years old. 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.



4. Baby MA is about 10 years old presumed to have been born in 2015. A letter from a Volunteer Children Officer from Mathare Division dated 11th August, 2015 is addressed to Angel Centre Children Home. The letter indicates that the child was abandoned at a house in Huruma. The matter was reported to Mathare AP Vide OB Number XX/11/08/15. The minor was placed at Angel Centre Trust and admitted same day vide admission number 177/2022 for care and protection. However, the CCI made a report at the Huruma Police Station under OB No 58/8/2/2023 as well as media posters in collaboration with child welfare society but no one has ever come forth to claim the child.
5. The Resident Magistrate Children’s Court sitting in Nairobi committed the child to the Applicant vide P&C File E363/2024.
6. Change Trust, at their committee sitting on 26th July, 2024 confirmed that they had assessed the Applicant and found her suitable adoptive parent and further that the adoption would be in the child’s best interest therefore declared the child free for adoption vide certificate serial Number 00710 and the minor was placed with the Applicant for care and fostering pending adoption.
7. PMS was appointed on 14th November, 2024 as the child’s guardian *ad litem*, by this Court and further directing the guardian *ad litem* and the Director of Children’s Services to investigate and file their respective reports within 45 days.
8. 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. Ezekiel Kimani Assistant Director Children’s Services submitted a report dated 3rd 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-AAAJWBU5. She is financially stable thus recommending the Applicant to adopt the child. Further, a favourable report was also submitted by PMS, Guardian *ad litem*, presented in which through her visiting 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.
9. The proposed Legal Guardian GWL testified in Court. She married and lives in Kitengela. She is a Caterer by profession. The Applicant is her Aunt. She consented to the adoption process. She understands what the role entails in the event circumstances demand, she will take on full parental responsibility.
10. The Court interviewed the minor who was in Court. He averred that he is 10 years old. He attends to Bishop Perlo Centre School where he is in Grade 4. He understands that he is in Court for adoption process. He consents to the adoption.

Determination

11. 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.
12. 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.
13. 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's Act*, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the *Children's 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.
14. 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.”
15. 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 MWG is hereby allowed to adopt BABY MA (Minor).
 - b. Henceforth, the child shall be known as MG.
 - c. His date of birth shall be 11th August, 2015.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. GWL is hereby appointed as Legal Guardian of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue a certificate as is required.
 - 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 23RD DAY OF MAY, 2025.

PM NYAUNDI



JUDGE

In the presence of:

Ambaka for Applicant

Fardosa Court Assistant

