



REPUBLIC OF KENYA



**In re Baby MT (Adoption Cause E213 of 2023)  
[2025] KEHC 6653 (KLR) (Family) (23 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6653 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E213 OF 2023  
PM NYAUNDI, J  
MAY 23, 2025**

**IN THE MATTER OF**

**JONES MOGENI MAKORI ..... 1<sup>ST</sup> APPLICANT  
SOPHIA OLIVIA MAYAKA ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Vide Originating Summons, dated 30th August, 2023 the Applicants herein seek the following orders, THAT:-
  - i. They be allowed to adopt the child currently identified as BABY MT.
  - ii. Henceforth, the child be renamed as HTNM.
  - iii. The child's date and place of birth be declared to be 5<sup>th</sup> January, 2017 at Nakuru.
  - iv. The child be presumed to be a Kenyan Citizen by birth; and consequently, be entitled to all the rights and benefits in respect thereof.
  - v. BKM be appointed as Legal Guardian of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
  - vi. The Guardian ad litem be discharged.
  - vii. The Registrar General be directed to make the appropriate entries in the Adopted Children's Register.
  - viii. This Court do issue such further orders as are in the interest of justice.
2. This is a joint Application. Applicants are both Kenyan Citizens residing in Naivasha, Nakuru County. They got married under customary law in 2014. Later solemnized their marriage on 16<sup>th</sup> April, 2016



- as per the annexed copy of marriage certificate serial Number XXXXXX. They are both teachers by profession. They have sufficient family income, finances and assets to enable them take good care of the child. They do not have biological children.
3. They have had custody for 6 years. The minor is 7 years old. They both understand the implications of the adoption order, they are aware that the child will have full rights as would a biological child and the order is not reversible.
  4. The minor herein (BABY MT) is presumed to have been born on 5<sup>th</sup> January, 2017 at Njoro, Nakuru as evidenced by Certificate of Birth Serial No. XXXXXX. The baby was found abandoned by a good samaritan at the Railways Station next to Landon at around 6 am. The matter was reported to the Area Chief. Subsequently, the report was further made at Central Police Station, Nakuru Vide OB Number 11/7/1/2017.
  5. That the child was admitted into Gender Violence Recovery Centre, Nairobi Women's Hospital and after she was treated and discharged from the facility on 9<sup>th</sup> January, 2017. Further the child was admitted into Haven of Hope Baby Center and named MT.
  6. Thereafter, the child was formally committed into Haven of Hope pursuant to Court order issued by the Children's Court at Nakuru Children's Court on 13<sup>th</sup> January 2017, through Care and Protection Case Number 14 of 2017. After their investigations the OCS, Central Police Station issued a final letter dated 19<sup>th</sup> July, 2017 confirming that efforts to trace the relatives were futile.
  7. Buckner Kenya Adoption Services, consented that the child being adopted as per the Case Summary dated 29<sup>th</sup> March, 2018 and also through their committee sitting on 7<sup>th</sup> April, 2017 confirmed that they had assessed the Applicants and found them suitable adoptive parents having met the legal requirements therefore declared the child free for adoption vide certificate serial Number 0375.
  8. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the Applicants to adopt the child. Mr. Ezekiel Kimani, the Assistant Director submitted a positive report dated 14<sup>th</sup> October 2024, through his visit he noted a strong bond have developed between the child and the Applicants. The Applicants have met all legal requirements for local adoption as stipulated in the *Children Act 2022*. They are financially stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-YLT9VK9B and PCC-677ZV9EA respectively and are mentally stable. The Officer recommended the adoption process.
  9. RWW, Guardian Ad Litem, presented report dated 7<sup>th</sup> March, 2024 in which during her visit, she observed the child share a very special bond by the Applicants. The child referred the Applicants as dad and mom therefore, recommending the Applicants to adopt the child since it is in the child's best interests.
  10. Proposed Legal Guardian (BKM) was in Court and testified that 2<sup>nd</sup> Applicant is her sister and 1<sup>st</sup> Applicant is his brother in-law. She consented to be the legal guardian for the minor. She understands the legal implications and she will assume full parental responsibility in the event the Applicants are unable to discharge their responsibilities.
  11. The minor was also in Court and she stated that she lives in Naivasha. She attends to school at Milimani Primary School where she is in Grade 3. She understands that she is in Court for adoption process.



## Determination

12. After carefully assessing the records herein, I am satisfied that the Applicants have 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.
13. 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.
14. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicants have 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. The Court observed that the child was comfortable with the Applicants. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed. The Applicants have also adopted a male child in Adoption Cause E 212 of 2013 for the best interest of the child.
15. 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.”
16. 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 Applicants, JMM and SOM are hereby allowed to adopt BABY MT.
  - b. Henceforth, the child shall be known as HTN.
  - c. Her date of birth shall be 5<sup>th</sup> January, 2017 at Njoro, Nakuru County.
  - d. She is presumed to be a Citizen of Kenya by birth.
  - e. . BKM is hereby appointed as Legal Guardian of the child.



- f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
- g. The Registrar General to enter this order in the Adoption Children Register and subsequently issue a certificate in respect of the minor as required.
- h. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 23<sup>RD</sup> DAY OF MAY, 2025.**

**P M NYAUNDI**

**JUDGE**

In the presence of:

Ms. Kimenyi for Applicant

Fardosa Court Assistant

