



**In re Baby TSI (Adoption Cause E212 of 2023)
[2025] KEHC 7001 (KLR) (Family) (23 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7001 (KLR)

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

FAMILY

ADOPTION CAUSE E212 OF 2023

PM NYAUNDI, J

MAY 23, 2025

IN THE MATTER OF THE CHILDREN ACT (ACT NO. 29 OF 2022)

AND

IN THE MATTER OF BABY TSI

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

IN THE MATTER OF

JMM 1ST APPLICANT

SOM 2ND 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 TSI .
 - ii. Henceforth, the child be renamed as TAM
 - iii. The child’s date and place of birth be declared to be 30th July, 2016 at Corban Health Care Services.
 - 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 16th 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 TSI) is presumed to have been born on 30th July, 2016. The child was abandoned by his mother (EM) at Corban Health Care Services, Nairobi after delivery as evidenced by Certificate of Birth Serial No. xxxxx. He is 8 years old. On 1st August 2016, the workers from the Health Care Centre reported the matter of abandonment to Buru Buru Police Station Vide OB Number 33/1/8/2016. That the child was placed at Imani Children Home for care and protection.
 5. Consequently, the child was formally committed at Imani Children Home pursuant to Court order issued by Senior Resident Magistrate Children's Court at Nairobi on 29th March 2017, in Protection and Care Case Number 84 of 2017. That OCS police station from Buru Buru through their final letter dated 2nd March, 2017 indicates that their efforts in tracing his kin bore no fruit.
 6. Buckner Kenya Adoption Services, through their committee sitting on 7th April, 2017 confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide certificate serial Number 0180.
 7. 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 14th 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.
 8. Rahab Wangechi Wahome, Guardian Ad Litem, presented report dated 3rd December, 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.
 9. Proposed Legal Guardian (BKM) was in Court and testified that 2nd Applicant is her sister and 1st 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.



10. The Court interviewed the minor who was in Court and the minor stated that he is 8 years old. He attends to Milimani Primary School where he is in Grade 3. He lives in Naivasha. The minor further stated that he lives in Naivasha together with his dad, mum and his sister. The child understands that he is in Court for adoption process.

Determination

11. 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.

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 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 female child in Adoption Cause E 213 of 2013 for the best interest of the child.

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 Applicants, JMM and SOM* are hereby allowed to adopt Baby TSI .
- b. Henceforth, the child shall be known as TAM



- c. His date of birth shall be 30th JULY, 2016 at Nairobi county.
- d. He 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 issue certificate accordingly.
- h. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 23RD DAY OF MAY, 2025.

P M NYAUNDI

JUDGE

In the presence of:

Ms. Kimenyi for Applicants

Fardosa Court Assistant

