



**In re Adoption of ODP (the Child) (Adoption Cause E146 of 2024)
[2025] KEHC 6560 (KLR) (Family) (15 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6560 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E146 OF 2024
PM NYAUNDI, J
MAY 15, 2025**

IN THE MATTER OF

SUS 1ST APPLICANT

MSH 2ND APPLICANT

JUDGMENT

1. Vide Amended Originating Summons, dated 7th August 2024, the Applicants herein seek the following orders, that:-
 - i. An order do issue releasing the child for adoption and or that the child is deemed free for adoption.
 - ii. KUS and PHG of P.O Box XXXXX-XXXXX, Nairobi be appointed Guardians *ad Litem* in this case.
 - iii. The Director of Children’s Service be directed to compile the requisite report on the Applicants joint fitness to adopt the child ODP, under the [Children Act, 2022](#).
 - iv. The Applicants jointly be authorized to adopt ODP the child to be known as OMH upon adoption.
 - v. The Court be pleased to make any further orders it deems necessary.
2. This is a joint adoption where the Applicants are both Kenyan Citizens residing in 1st Parklands Avenue at Acacia Court, Nairobi County. They celebrated they union on 30th May, 2023 as per the annexed copy of marriage certificate number XXXXX. Consequently, the 1st Applicant desires the 2nd Applicant to adopt her child from her previous marriage since her husband DLP is deceased.



3. They are in gainful employment. The 1st Applicant is an Accountant by profession while the 2nd Applicant is a business development Manager. That they moved in together with the minor and they live as a family unit. Subsequently, the Applicants do not have any other children together apart from the minor herein.
4. The Applicants have the means to provide for the needs of the child. They understand the legal 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.
5. Baby ODP was born on 8th February, 2019 to the 1st Applicant and DLP where he lived with both of his parents until the passing of his biological father. The child continued to reside with the 1st Applicant until the 1st Applicant married the 2nd Applicant. The minor is 6 years old. He attends to school at [Particulars Withheld] School where he is in Reception 8. He recognizes the 1st Applicant and 2nd Applicant as his parents.
6. MR. LMP (The minor's paternal grandfather) consented for the adoption to proceed which is supported by an affidavit dated 14th July, 2024. The 1st Applicant approached the Change Trust Adoption Society and in its committee sitting on 24th July, 2024 declared the child free for adoption vide certificate serial number 00690.
7. KUS and PHG were appointed on 20th March, 2025 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 Applicants have recommended that this Court allows the Applicants to adopt the child. Mr. Nyaranga Odundo (Children's Officer) from Children's Homes prepared and submitted a report dated 25th February, 2025. Through his visit he observed that both Applicants are excited about adoption process and have bonded well with the minor. He also noted that the Applicants will give the minor high quality education. They are financially stable and mentally stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-V6SM4VWE7 and PCC-JRSM7J7AA respectively. The Applicants have met all the legal requirements for kinship adoption as provided in the [Children Act, 2022](#) thus recommending the Applicants to adopt the child.
9. Further, a favourable report dated 21st February, 2025 was also submitted by KUS And PHG Guardian *ad Litem*, in which through their visit confirmed that the Applicants bonded well with the minor, they will provide the minor with good education and comfortable life as it will be the best interest of the child hence recommends the adoption.
10. The proposed Legal Guardian SHG an Advocate by profession, lives in Parklands and is a long term friend to the Applicants consented to the adoption process. She testified in Court that she understands what the role entails in the event circumstances demand, she will take on full parental responsibilities.
11. Further, the minor was in Court where he testified that he is 6 years old. He referred the Applicants as Dad and mother. There was also consent from the 1st Applicants' father consenting the minor to be adopted by the Applicants.

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 Kinship Adoption from the Reports filed. It is evident that the Applicants have fulfilled all the legal requirements of a Kinship 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 they consented to the adoption by signing the form offering the child for adoption. 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.
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 SUS and MSH are hereby allowed to adopt Baby ODP (Minor) .
 - b. Henceforth, the child shall be known as OMH.
 - c. He is presumed to be a Citizen of Kenya by birth.
 - d. SHG is hereby appointed as Legal Guardian of the child.
 - e. The Registrar General to enter this order in the Adoption Children Register and issue a certificate
 - f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - g. The guardian *ad Litem* is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 15TH DAY OF MAY, 2025.



P. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Ms. Karuga for Applicant

