



**In re Baby ANG (Minor) (Adoption Cause E241 of 2024)
[2025] KEHC 6837 (KLR) (Family) (15 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6837 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E241 OF 2024
PM NYAUNDI, J
MAY 15, 2025
IN THE MATTER OF THE CHILDRENS ACT NO. 29 OF 2022
AND
THE CHILDREN (ADOPTION) REGULATIONS 2005
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY A.G.M
AND
IN THE MATTER OF ADOPTION OF BABY ANG
(MINOR)**

IN THE MATTER OF

AGM 1ST APPLICANT

CH 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 22nd October, 2024 the Applicants herein seek the following orders, that:-
 - i. They be authorized to adopt Baby ANG, minor herein.
 - ii. The child be known as ANG.



- iii. The Registrar General be ordered to make appropriate entries in the Adopted Children's Register in respect of ANG.
 - iv. The Court be pleased to appoint JKM as the legal guardian of ANG upon granting of the adoption orders.
 - v. Baby ANG be considered a Kenyan Citizen.
 - vi. The Court be pleased to make any further orders it deem necessary.
2. This is a joint adoption where the Applicants are both Kenyan Citizens. They are husband and wife having celebrated their union on 7th December, 2019 as per the annexed copy of marriage certificate number XXXXXX. The 1st Applicant resides in New Jersey, USA. He also has a home in Kenya Upland, Lari Sub-County where the 2nd Applicant resides in. The 1st Applicant works with the United Nations Headquarters, New York, USA. The 1st Applicant is related to the child who is her niece. The minor's mother GGM is 1st Applicant's sister who is deceased. She died on 21st November, 2021 as per the annexed death certificate. The minor's father has never been in the minor's life and that he is not known to the minor or the family at large.
 3. That the 1st Applicant's father PMG has been living with the minor since her mother died. He has been taking care of his granddaughter with the help of Applicants.
 4. They have a 6 years old child. They 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 ANG (minor) was born to late GGM (1st Applicant's sister). After the demise of the minor's mother, she remained under the care of her grandfather PMG. Subsequently the grandfather offered the minor to be adopted by the Applicants so that the minor can continue to access parental care of a that and mother which the minor will have a sense of belonging. Consequently, he approached the Kenya Children's Homes Adoption Society. He was counseled at length and signed a Certificate of Acknowledgment. Pursuant to *Children Act* 2022, the minor was freed by the Kenya Children's Homes Adoption Society's Case Committee on its sitting on 18th September, 2024 and a freeing Certificate Serial No.XXXX was issued.
 6. DMM was appointed on 27th 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 14 days.
 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. Mary Mwagona Adoption Officer, Children's Services prepared and submitted a report dated 18th November, 2024 in favour of the adoption proceedings where she asserted that the Applicants bonded well with the child. The Applicants have met all the legal requirements for kinship adoption as provided in the *Children Act*, 2022. She also averred that the Applicants are mentally and physically healthy. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-XXXXXXXX and PCC-XXXXXXXX respectively. They are financially stable thus recommending the Applicants to adopt the child.
 8. Further, a favourable report dated 27th November, 2024 was also submitted by DMM, Guardian Ad Litem, in which through his visit averred that the child is well taken care of by the Applicants, the child has bonded well with the Applicants and for the best interest of the child he recommends the adoption.



9. The proposed Legal Guardian JKM brother to the 1st Applicant and brother in law to the 2nd Applicant consented to the adoption process. He testified in Court that he understands what the role entails in the event circumstances demand, he will take on full parental responsibilities.
10. Further, the minor was in Court where she testified she attends to school at [Particulars Withheld] in Limuru. She is in standard 6. That she understands the adoption proceedings. She referred the Applicants as Dad and mother. She also recognized the Applicants' son RMG whom she referred as brother. The minor further stated that she is happy and agreed to be adopted.
11. The 1st Applicant's father, PMG consents to the adoption.

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 AGM and CH are hereby allowed to adopt baby ANG (minor) .
 - b. Henceforth, the child shall be known as ANG.
 - c. She is presumed to be a Citizen of Kenya by birth.
 - d. JKM is hereby appointed as Legal Guardian of the child.
 - e. The Registrar General to enter this order in the Adoption Children Register and issue 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

No appearance by parties

