



REPUBLIC OF KENYA



KENYA LAW
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**In re MAL (Minor) (Adoption Cause E001 of 2025)
[2025] KEHC 6386 (KLR) (9 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6386 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
ADOPTION CAUSE E001 OF 2025**

JM OMIDO, J

MAY 9, 2025

IN THE MATTER OF THE CHILDREN ACT, CAP 141 OF THE LAWS OF KENYA

AND

IN THE MATTER OF M.A.L. (MINOR)

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

IN THE MATTER OF

SAO APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 16th January, 2025, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. That the Applicant S.A.O. be authorized to adopt the child M.A.L. alias N.M.
 - ii. That if the adoption order is granted, the child be called N.M. and that the Registrar General do make the an entry into the Adopted Children's Register recording the adoption in accordance with the particulars as shall be set out in the adoption order.
 - iii. Costs of this application be in the cause.
2. The matter was canvassed by way of viva voce evidence on 6th May, 2025.

The Child.

3. The child (female) was born on 3rd November, 2019 at Shibwe Subcounty Hospital to F.A. and F.L. out of an incestuous relationship and could not be raised by the biological parents due to cultural



prohibitions. She was handed over to Springs of Life Childrens Home, Bukura by the biological parents for adoption. The child's biological parents are unknown to the Applicant.

4. The child was placed under the care of the Applicant on 2nd September, 2021 and has since then remained in the custody and care of the Applicant.

The Applicant.

5. The Applicant was born in 1978. She is a Kenyan citizen, residing in Kisumu County. She was married but divorced in 2006 or 2009 (not clear). She has no other children. The Applicant holds a diploma in secretarial studies and currently works as a clearing and forwarding agent at a freight company in Kisumu County.
6. The Applicants' motivation for the adoption is that she would like to give the child a home, legally. In her Statement in support of the Application, she states that she has been the primary caregiver for the child the period that she has had custody of the child and that she is financially capable of fending for the child.
7. The Applicant presented copies documents, recommendations and referee information, all pursuant to the provisions of the Children (Adoption) Regulations, 2020. Among the documents provided was a certificate of police clearance that demonstrates that she has no criminal history. The documents disclose that the Applicant is financially, socially, physically and mentally fit to adopt the child. The Applicant confirmed that she fully understands the implications of an adoption order and that the same is irreversible.
8. Additionally, pursuant to Section 195 of the *Children Act*, the Applicant provided consent from her relatives (a couple), LAO and RNO, agreeing to be appointed as the legal guardians of the child in the event that anything untoward happened to the Applicant.

The Adoption Approval Process

9. Little Angels Network, an Adoption Agency conducted an assessment of the Applicant. The Agency filed its report recommending the adoption of the child by the Applicant. The child was declared free for adoption by the Agency vide a Certificate of Declaring a Child Free for Adoption serial number XXXXX dated 8th July, 2021.
10. On 26th February, 2025, this court issued an directing the Director of Children's Services to investigate the suitability and fitness of the Applicant to adopt the child. The report was filed and the same is to the effect that the Applicant is fit to adopt the child.

Analysis and Determination

11. The child herein was born in Kenya and is therefore a citizen of Kenya by birth. The biological parents of the child are unknown to the Applicant. The child was freely given up for adoption. This adoption, therefore, allows the child the opportunity to be raised in a stable and loving home environment.
12. In deciding any matter involving a child, the court is obligated to give priority to the best interest of the child. Section 8 of the *Children Act* provides:
 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies –
 - a. The best interests of the child shall be the primary consideration;



- b. The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule;
 2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to:-
 - a. Safeguard and promote the rights and welfare of the child;
 - b. Conserve and promote the welfare of the child; and
 - c. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.
13. I have considered the reports filed by the Adoption Agency, the Guardians Ad Litem, the Director of Children Services, all of which were positive and recommended the adoption. I was able to see the child, who was present before me and who looked happy in the custody of the Applicant.
14. It is, therefore, my view that the adoption serves the best interests of the child as the Applicant has been approved as a prospective adoptive parent by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus she is able to effectively handle her parental responsibilities.
15. Accordingly, I allow the Summons and make the following orders:
 - i. That the Applicant, SAO, is allowed to adopt the child currently identified as MAL.
 - ii. Upon adoption, the child shall be renamed Nuella Marvel.
 - iii. The child is declared to be a Kenyan citizen by birth, entitled to all the rights and privileges under *the Constitution* of Kenya and all applicable laws.
 - iv. LAO and RNO are hereby jointly appointed as Legal Guardians of the child.
 - v. That the Registrar-General is directed to make the appropriate entries in the Adopted Children's Register.
 - vi. This file is hereby closed.

DELIVERED, DATED AND SIGNED THIS 9TH DAY OF MAY, 2025.

JOE M. OMIDO

JUDGE

For Applicant: Mr. P.D. Onyango.

Court Assistant: Mr. Ngoge & Mr. Juma.

