



In re Abandoned Baby Boy alias LJ (The Child) (Adoption Cause E184 of 2024) [2025] KEHC 5506 (KLR) (Family) (2 May 2025) (Judgment)

Neutral citation: [2025] KEHC 5506 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E184 OF 2024
PM NYAUNDI, J
MAY 2, 2025**

IN THE MATTER OF

**DMM 1ST APPLICANT
PMK 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 16th August, 2024 the Applicants herein seeks the following orders, That:-
 - i. Spent
 - ii. The Director Children’s Department, Ministry of Labour, Social Security and Services investigate the Applicants’ fitness to adopt and file a report.
 - iii. The Applicants be authorized to adopt Abandoned Baby B Alias LJ to be known as NMM.
 - iv. The child be presumed a Kenyan Citizen by birth.
 - v. The child’s date of birth be 9th August, 2023 and the place of birth be Machakos.
 - vi. The Registrar General be directed to enter the adoption in the Adopted Children Register.
 - vii. The Director Immigration be authorized to issue the child with a Kenyan passport.
 - viii. JWM, the 1st Applicant’s sister be appointed legal guardian of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
 - ix. The Court be pleased to make any further orders if deems necessary.
2. The Applicants are both Kenyan Citizens. They are married as per the annexed copy of marriage certificate serial Number 68419. They are both in gainful employment. The 1st Applicant is a Claim’s



- Analyst at Cigna International while the 2nd Applicant is a Communication Specialist at UNEP. They have the means to provide for the needs of the child. They do have one biological child as per the availed copy of birth certificate serial Number 1XXXX.
3. They have had custody of the minor for 11 months. 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 is presumed to have been born on 9th August, 2023. He was found abandoned at around 1300hrs on 10th August, 2023 at [particulars withheld] Area in Mlolongo Township by Good Samaritans. They took the child to Mlolongo Medical Centre for treatment. Subsequently, a report was made at Mlolongo Police Station vide OB Number XXX/2023. Thereafter the child was placed at Mahal Pa Maisha Infant Rescue Centre pursuant to Court Order issued by the Children's Court at Mavoko through Care and Protection Case Number E0XX of 2023. After their investigations the Mlolongo Police Station issued a final letter dated 13th February, 2024 confirming that efforts to trace the mother were futile.
 5. The Buckner Kenya Adoption Services, had a committee sitting on 4th March, 2024 where they confirmed that they had assessed the Applicants and found them to be suitable adoptive parents having met the legal requirements therefore declared the child free for adoption vide certificate serial Number 0XXX.
 6. 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. The Children's Officer Mr. Nyaranga Odundo submitted a report dated 3rd February, 2025 where he stated that after visiting he noted that the Applicants were excited about completing the adoption process in order to formalize their family relationship with their son. They are financially stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-ZLXXXX and PCC-3OXXXX. The child bonded well with both Applicants as well as his prospective adoptive sister. The Applicants having met all legal requirements for local adoption as laid out in the [Children Act](#) 2022, the Officer recommended the adoption.
 7. The Guardian Ad Litem, DMN, presented report dated 24th October 2024, in which through his observations, interviews, and assessments, believed that the adoption of the minor by the Applicants is in the best interests of the child thus recommended the adoption.
 8. The proposed Legal Guardian, JWM testified in Court. She is the Sister to the 1st Applicant and Sister in law to the 2nd Applicant. She understands what the role entails in the event circumstances demand, she will take on full parental responsibility. She does not have children of her own.
 9. The Child was present in Court and the Court confirmed that the minor was at ease with both the applicants. It was evident that he recognises both of them as family.

Determination

10. 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.
11. 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.
12. 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.
13. 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.”
14. 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, DMM and PMK are hereby allowed to adopt BLJ alias Abandoned Baby B.
 - b. Henceforth, the child shall be known as NMM.
 - c. His date of birth shall be 9th August, 2023 at Machakos.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. JWM 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 the child with a certificate.
 - h. The guardian *ad litem* is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 2ND DAY OF MAY, 2025.

NYAUNDI

JUDGE

In the presence of:



Fardosa Court Assistant

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