



**In re Adoption of Baby AA (Adoption Cause E177 of 2024)
[2025] KEHC 5539 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5539 (KLR)

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

FAMILY

ADOPTION CAUSE E177 OF 2024

PM NYAUNDI, J

MAY 2, 2025

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

AND

IN THE MATTER OF BABY AA

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

IN THE MATTER OF

RIM APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 17th August, 2024 the Applicant herein seek the following orders, that:-
 - i. Be allowed to adopt the child identified as baby AA.
 - ii. Henceforth, the child be renamed as GNM.
 - iii. The child's date and place of birth be declared to be 12th September, 2022 in Muthua-ini, Nyeri County.
 - 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. GNM be appointed as Legal Guardian of the child, in the event that the Applicant herein is incapacitated or in any way unable to discharge her parental obligations.



- vi. The Registrar General be directed to make the appropriate entries in the Adopted Children's Register and issue a Certificate to that effect.
 - vii. The guardian *ad litem* be discharged.
 - viii. This Court do issue such further orders as are in the interest of justice.
2. The Applicant is a Kenyan Citizen residing in Nairobi County. She has never been married. She is in gainful employment where she works as an Executive Secretary at the Technical University of Kenya. She has had custody of the child since 10th November, 2023. The child is 2 ½ years. She does not have biological children. She has always desired to be a mother. She has the means to provide for the needs of the child. She understands the legal implications of the adoption order, she is aware that the child will have full rights as would a biological child and the order is not reversible.
 3. Baby A is presumed to have been born on 12th September, 2022. She was found abandoned on 18th September, 2022 in [Particulars Withheld] Village Gitero Area near the gate of Rose Njeri Chelagat Serem, a Good Samaritan. She reported the matter to the area Assistant Chief. They made a report to Nyeri Police Station vide OB Number 77/18/9/2022. The minor was admitted at Neema House Infant Rescue Centre for care and protection. The Children Court sitting in Nyeri committed the child to New Life Home Nakuru vide P&C File 153/2022. Subsequently, Nyeri Police Station issued a final letter dated 2nd October, 2022 confirming that efforts to trace the relatives were futile.
 4. That on 11th October 2023, Little Angels Network, declared the child free for adoption Vide certificate serialized as 00XXXX85 and on 10th November, 2023 the minor was placed with the Applicant for care and fostering pending adoption.
 5. On 24th October, 2024 this Court appointed DAO, as the child's guardian along with the Director of Children's Services directed that they investigate and file their respective reports within 45 days.
 6. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant has recommended that this Court allows the Applicant to adopt the child. A report dated 13th January, 2025 was submitted by Mary Atati, Assistant Director Children's Services where she averred that the Applicant has bonded well with the child, she has met all the legal requirements for adoption as provided in the Children Act, 2022. She also averred that the Applicant is mentally and physically healthy as well as devoid of any criminal records as per annexed Police Clearance Certificates Number PCC-VXXXXBP.
 7. She is financially stable thus recommending the Applicant to adopt the child. Report submitted by DAO, Guardian *ad litem*, presented in which through her observation she noted that the Applicant loves and cares for the child. Again the Applicant has been looking forward to having a family of her own for a very long time therefore recommending this adoption process. She therefore recommends the application.
 8. The proposed Legal Guardian GNM testified in Court. She is the Sister to the Applicant. She consented to the adoption process. 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 minor was present in Court, owing to her age she was too shy to communicate. The Court observed that she appeared at ease with the Applicant and evident that she has bonded well with the Applicant.



Determination

8. After carefully assessing the records herein, I am satisfied that the Applicant has 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.
9. 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.
10. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has 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 Applicant as she referred the Applicant as her mother. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
11. 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.”
12. 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 RIM is hereby allowed to adopt Baby AA (Minor).
 - b. Henceforth, the child shall be known as GNM.
 - c. Her date of birth shall be 12th September, 2022 at Muthua-ini, Nyeri County.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. GNM is hereby appointed as Legal Guardian of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register.



- g. The Registrar General is hereby directed to issue the child with Birth Certificate.
- h. The Director Immigration is authorised to issue the child with a Kenyan Passport.
- i. 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

Ms. Kimenyi for the Applicant

