



REPUBLIC OF KENYA



**In re Baby B (Adoption Cause E179 of 2024)
[2025] KEHC 5507 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5507 (KLR)

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

FAMILY

ADOPTION CAUSE E179 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 B

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

IN THE MATTER OF

JNS 1ST APPLICANT

MWW 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 24th August, 2024 the Applicants herein seeks the following orders, that:-
 - i. The Applicants, JNS and MWW be allowed to jointly adopt the child identified as BABY BB.
 - ii. Henceforth, the child be renamed as VDJ.
 - iii. The child's date and place of birth be declared to be 14th March, 2023 in Kajiado 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 including issuance of a post-adoption Certificate of Birth and a passport.
 - v. AMW and LGA be appointed as Legal Guardians of the child, in the event that the Applicants herein are unable to discharge their 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 Applicants are both Kenyan Citizens residing in Nairobi County. They have been married since 17th November, 2012 as per the annexed copy of marriage certificate serial Number 8XXX32. The 1st Applicant is a Pastor while the 2nd Applicant is a business lady.
3. They have had custody of the child for 1 year, 1 month. The child is 1 year, 11 months. They do not have biological children. The Applicants have the means to provide for the needs of the child. They both 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.
4. The minor was presumed to have been born on 14th March, 2023. He was found abandoned by the Riverside in Kware Ongata Rongai Area on 17th March, 2023 by Good Samaritans. A report was made at Ongata Rongai Police Station vide OB Number 44/17/3/23. The minor was admitted to Kitengela Medical Centre for Medical Assessment and on the same date he was admitted at Mahali Pa Maisha Infant Rescue Centre. Consequently, on 17th April, 2023 the Children Court sitting in Ngong committed the child to Mahali Pa Maisha Children Rescue Center vide P&C file No. MCP&CCO/E040 of 2023. After their investigations, the Ongata Rongai Police Station issued a final letter dated 29th September, 2023 confirming that efforts to trace the child's kin were futile.
5. That on 22nd November 2023, Buckner Kenya Adoption Services, declared the child free for adoption Vide certificate serialized as 0XX7 and on 17th December, 2023 the minor was placed with the Applicants for fostering pending adoption.
6. MMM, the Guardian ad Litem and the Director of Children's Services have both submitted their reports.
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. Winfred Ikinya, Assistant Director Children's Services submitted a report dated 2nd December, 2024 where she stated that the Applicants have bonded well with the child, they enjoy a parents-son relationship. She also stated that the Applicants are mentally and physically healthy as well as devoid of any criminal records as per annexed Police Clearance Certificates Number PCC-AKXXXDLY and PCC-50TXXXAK thus recommending the Applicants to adopt the child. They are financially stable. MMM, Guardian Ad Litem, presented report dated 30th January 2025, in which through her visit, she interviewed and concluded that the Applicants are capable of loving caring protecting the minor the best way possible to their capability therefore recommending the adoption proceedings for the best interest of the child.
8. The proposed Legal Guardians AMW and LGA testified in Court. They are Applicants' close friends. They consented to the adoption process. They understand what the role entails in the event circumstances demand, they will take on full parental responsibility.
9. The minor was present in Court and the court observed that the child recognises the applicants as his parents and that he is comfortable and at ease with them, giving them high fives and hugging them.



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 Act*, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the *Children 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.”
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, JNS and MWW are hereby allowed to adopt Baby BB (Minor).
 - b. Henceforth, the child shall be known as VDJ.
 - c. His date of birth shall be 14th March, 2023 at Ongata Rongai In Kajiado County.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. The Director Immigration is authorised to issue the child with a Kenyan Passport.



- f. The Registrar General is hereby directed to issue the child with Birth Certificate.
- g. AMW and LGA are hereby appointed as Legal Guardians of the child.
- h. The Registrar General to enter this order in the Adoption Children Register and issue the child with a certificate.
- 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.

P. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Ms. Kimenyi for Applicants

