



REPUBLIC OF KENYA



**In re RK (Minor) (Adoption Cause E227 of 2024)
[2025] KEHC 5553 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5553 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E227 OF 2024
PM NYAUNDI, J
MAY 2, 2025
IN THE MATTER OF THE ADOPTION OF BABY RK (MINOR)**

IN THE MATTER OF

FKK 1ST APPLICANT

JMK 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 16th October, 2024 the Applicants herein seek the following orders, that:-
 - i. Spent
 - ii. The Director Children’s Department, under the Ministry of Labour, Social Security and Services investigates the Applicant’s fitness to adopt and file a report.
 - iii. The Applicants, FKK and JMK be authorized to adopt RK (minor) upon the making of an adoption order by this Honourable Court.
 - iv. HK be appointed legal guardian to RK (minor) in the event the Applicants being the Adopters herein die or become permanently incapacitated before the minor attains full age.
 - v. The child be presumed a Kenya Citizen by birth.
 - vi. The child’s date of birth be 4th May, 2021 and the place of birth be Nairobi.
 - vii. If an adoption order is made, it is proposed that the child be known as MMK.
 - viii. The Registrar General be directed to issue a birth certificate and not an adoption certificate in respect of MMK.



- ix. The Director Immigration be authorized to issue the child with a Kenyan Passport.
- x. The Court be pleased to make any further orders it deems necessary.
2. The Applicants are both Kenyan Citizens. They have been married since 2nd August, 2008 as per the annexed copy of marriage certificate serial Number 341607. They are both in gainful employment. The 1st Applicant is an IT Consultant while the 2nd Applicant is a lawyer by profession.
3. They have had custody of the child since 5th January, 2023. The child is 3 years. They do have other biological children (14, 12, 9 years old) who consented to this adoption proceeding. They wanted a larger family. 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 4th May, 2021. She was found abandoned at Full Gospel Church near J.M Hospital in Ol-Kalou by Good Samaritans. A report was made at Olkalou Police Station vide OB Number 1704052021. The minor was admitted at J.M Hospital and on 6th May, 2021 the child was placed at Kingdom Builders Children's Home for care and protection. Subsequently, the Children Court sitting in Nakuru committed the child to New Life Home Nakuru vide P&C File 2212022. After their investigations the Ol-kalou Police Station issued a final letter dated 27th July, 2022 confirming that efforts to trace the relatives were futile.
5. The Change Trust Adoption Society, declared the child free for adoption on 11th November, 2022 Vide certificate serialized as 00535 and on 7th January, 2023 the minor was placed with the Applicants for fostering pending adoption.
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. Winfred Ikinya, Assistant Director Children's Services submitted a report dated 26th February, 2025 where she stated that the Applicants have bonded well with the child as well as the other children as she has become one of them. 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-PXXXX45L and PCC-JRXXXX7GPV thus recommending the Applicants to adopt the child. They are financially stable.
7. JMK, Guardian Ad Litem, presented report dated 18th January 2025, in which through her observation she noted that the child was happily and well cared for growing in a favourable environment and at peace therefore with the child's best interests at heart, recommends the adoption.
8. HK, the proposed Legal Guardian testified in Court. She is the Sister to the 2nd Applicant and Sister in law to the 1st 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 Court interviewed the minor herein. It was evident that she recognises the Applicants as her parents. She was at ease with both of them

Determination

9. 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.
10. 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.
 11. 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.
 12. 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.”
 10. 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, FKK and JMK are hereby allowed to adopt RK (Minor).
 - b. Henceforth, the child shall be known as MMK.
 - c. Her date of birth shall be 4th MAY, 2021 at Nairobi.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. HK 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 is hereby directed to issue the child with Certificate.
 - h. The Registrar General to enter this order in the Adoption Children Register.
 - 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

JK Applicant in person

