



**In re TB (Baby) (Adoption Cause E291 of 2024)  
[2025] KEHC 8780 (KLR) (Family) (20 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8780 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E291 OF 2024**

**PM NYAUNDI, J**

**JUNE 20, 2025**

**IN THE MATTER OF THE CHILDREN ACT, 2022**

**AND**

**IN THE MATTER OF BABY TB**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**IN THE MATTER OF**

**SN ..... 1<sup>ST</sup> APPLICANT**

**PMW ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Vide Originating Summons, dated 11<sup>th</sup> March, 2025 the Applicants herein seek the following orders, that:-
  - i. They be authorized to adopt baby TB, a child who is to known as AWN and the Registrar General be directed to enter this adoption into the Register of Adoptions.
  - ii. MWW be appointed as the Legal Guardian of the child.
  - iii. The Child be presumed to be born in Nakuru County in the Republic of Kenya.
2. This is a Joint Application where the Applicants are Kenyan Citizens residing in Limuru, Kiambu County. They celebrated their marriage on 28<sup>th</sup> July, 2001 at Saint Paul, Summit Assembly. The 1<sup>st</sup> Applicant is a Realtor while the 2<sup>nd</sup> Applicant is a small scale farmer. They are financially stable to take good care of the child. The Applicants are blessed with three (3) issues who are AN, AW and AN who consented to these adoption proceedings. They averred, that their desire to adopt the child herein is



- driven by the fact that they love children and want to expand their family and to give the minor a family and an environment where the minor can grow in and feel loved.
3. The Applicants have had custody of the minor for 4 years. 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. Baby TB (minor herein) is estimated to have been born on 10<sup>th</sup> October 2020, as per the attached birth notification. The baby was found abandoned at a culvert around Soilo, area in Nakuru County. The matter was reported to Kaptembwo Police Station Vide OB No. xx/13/10/2020. Thereafter, the child was taken to Nakuru Level 5 Hospital for medical checkup and later placed to Holy Family Children's Home for safe custody. That on 2<sup>nd</sup> March 2021, Children's Court sitting in Nakuru Court committed to the child at Life Springs Children's Home Vide Care and Protection Case Number MCP & CPS/E020/2020.
  5. Consequently, final police letter dated 6<sup>th</sup> May, 2021 indicates that their efforts to trace the child's relatives bore no fruits.
  6. That the Applicants approached the agency by making necessary assessments. Buckner Kenya confirmed to the Applicants that the child was available for adoption therefore declared the child free vide certificate serial Number 0833.
  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. Assistant Director Children Services Officer Winfred Ikinya submitted a report dated 10<sup>th</sup> June 2025, through her visit she observed a strong bond have developed between the child and the Applicants. The Applicants have provided a conducive environment where the child continuous to grow and develop They are financially stable. The Applicants having met all legal requirements for local adoption as stipulated in the *Children Act* 2022, the Officer recommended the adoption.
  8. The Guardian Ad Litem, PMN, also filed a favourable report dated 10<sup>th</sup> June 2025, in which during his visit, he observed the child is well taken care of by the Applicants, well bonded with Applicants, the child appearing to be happy, healthy, thus the child integrated well with the Applicants. Thus recommending the adoption.
  9. Proposed Legal Guardian (MWW) testified in Court that the 2<sup>nd</sup> Applicant is her sister and the 1<sup>st</sup> Applicant is her brother. She lives in Delaware USA. She is married. She has a child aged 25 years old. Further She consented to the proceedings as she understands what the role entails in the event circumstances demand, she will assume full parental responsibility.
  10. The court also interviewed the minor and it is evident that she recognizes the Applicants as her parents.

### **Determination**

11. 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.
12. 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.
13. 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.
14. 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.”
15. 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, SN AND PMW are hereby allowed to adopt baby TB.
  - b. Henceforth, the child shall be known as AWN.
  - c. Her date of birth shall be 13<sup>th</sup> October 2020 at Nakuru County.
  - d. She is presumed to be a Citizen of Kenya by birth.
  - e. MWW 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 the requisite certificate.
  - h. The guardian ad litem is hereby discharged.
- It is so ordered.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 20<sup>TH</sup> DAY OF JUNE, 2025.**

**P.M NYAUNDI**



## **JUDGE**

In the presence of:

Ms. Kemunto for Applicants

Fardosa Court Assistant

