



**In re Abandoned Baby alias MLM (Adoption Cause E238 of 2024)
[2025] KEHC 8292 (KLR) (Family) (13 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8292 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E238 OF 2024
PM NYAUNDI, J
JUNE 13, 2025
IN THE MATTER OF THE CHILDREN ACT, 2022
IN THE MATTER OF AN ABANDONED BABY ALIAS MLM**

IN THE MATTER OF

**BCN 1ST APPLICANT
JNM 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 11th October, 2024 the Applicants herein seek the following orders, that:-
 - i. They be authorized to adopt Abandoned Baby alias MLM, a child who is to be known as GNC and the Registrar General be directed to enter this adoption into the Register of Adoptions.
 - ii. BWN be appointed as the Legal Guardian of the child.
 - iii. The child be presumed to be born in Ruiru, Kiambu County in the Republic of Kenya.
2. The Applicants are both Kenyan Citizens residing in Juja, Kiambu County. They got married on 12th August 2006 as per the annexed copy of marriage certificate serial Number 31XX29. They are both business people. They have sufficient family income, finances and assets to enable them take good care of the child. They do not have biological children.
3. They have had custody of the minor since 8th March, 2024. The minor is 2 years old. 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. Abandoned Baby alias MLM (minor herein) is presumed to have been born on 3rd May 2023, in Ruiru Sub-County Hospital. The baby was found abandoned at the same facility by his mother and the matter was reported at Ruiru Police Station Vide OB No. 47/10/05/2023. Thereafter, the child was placed at New Life Children's Home. On 26th January, 2024 a final police letter in regards to the whereabouts of the parents bore no fruits prompting the child to be placed at the same facility, pursuant to Court Order issued by the Children's Court at Ruiru on 1st August 2023, through Care and Protection Case Number E025 of 2023.
5. Buckner Kenya Adoption Services, through their committee sitting on 16th February 2024, asserted that they were satisfied that the child is available for adoption and that would be in the child's best interest therefore declared the child free for adoption vide certificate serial Number 0X35.
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 Principal Children's Officer Harriet Kihara submitted a report dated 20th May 2025, through her visit she observed a strong bond have developed between the child and the Applicants. There was sufficient provision in terms of basic needs thus indicating the ability of the Applicants to care for the child. They are financially stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-ERTXXXVO and PCC-J5TXXXY7 respectively. The Applicants having met all legal requirements for local adoption as stipulated in the Children Act 2022, the Officer recommended the adoption.
7. The Guardian *ad litem*, PKN, presented report dated 27th February 2025, in which during his visit, he observed the child has adapted well to the family set up environment, bonded well the Applicants, the child appearing to be happy, healthy, friendly and quite at home with the Applicants and the extended family thus the child integrated well with the Applicants. Thus Mr. N recommended the adoption.
8. Proposed Legal Guardian (BWN) was in Court and testified that she is a teacher by profession and she lives in Nakuru Njoro Sub-County. She further averred that the 1st Applicant is her brother. She understands what the role entails in the event circumstances demand, she will assume full parental responsibility. The minor was also interviewed by Court and it was evident that he bonded well with the Applicants.

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.”
13. 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, BCN and JNM are hereby allowed to adopt BABY MLM.
 - b. Henceforth, the child shall be known as GNC.
 - c. His date of birth shall be 3rd May, 2023 at Ruiru, Kiambu County.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. BWN 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 requisite certificate
 - h. The guardian *ad litem* is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 13TH DAY OF JUNE, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Ms. Kemunto for Applicant

Fardosa Court Assistant

