



REPUBLIC OF KENYA



**In re Adoption of BD (The Child) (Adoption Cause E164 of 2024)
[2025] KEHC 8320 (KLR) (Family) (13 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8320 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E164 OF 2024
PM NYAUNDI, J
JUNE 13, 2025**

IN THE MATTER OF

JMM 1ST APPLICANT

EMM 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 31st July, 2024 the Applicants herein seek the following orders, That:-
 - i. They be authorized to adopt the Child currently known as BD.
 - ii. The child to be known as MBNM.
 - iii. The guardian ad litem be discharged and MMG and KNM (the 2nd Applicant, EMM sister) be appointed as the child's Legal Guardian in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - iv. The Registrar General be directed to make the appropriate entries in the adopted Children Registrar and issue a Certificate to that effect.
 - v. The Court be pleased to make any further orders it deems necessary.
2. This is a joint Application. The Applicants are Kenyan Citizens by birth residing in Loresho Ridge Estate, Nairobi County. They got married on 27th August, 2005 as per the annexed copy of marriage Certificate Serial Number certificate serial number 5XXXX. They are in gainful employment. The Applicants are co-founders and shareholders of Pearl Heart Schools. The 1st Applicant is a Financial Consultant while the 2nd Applicant is a Teacher by profession. They have sufficient family income to enable them take good care of the child. They have been blessed with four (4) children namely;



- DM, EM, MN and MN as per the attached copies of their birth certificates who consented adoption proceedings.
3. They have had custody since 10th February 2024 and have been providing for the minor materially, spiritually, emotionally and have been ensuring that the minors' special needs are well catered for. Moreover, 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. Baby BD (Child herein) is presumed to have been born on 27th December, 2022. The baby was found abandoned on 9th January 2023, in Kiuu area of Githurai 45. The matter was reported at Githurai Kimbo Police Station Vide OB No. XXXX/2023. The investigations regarding the whereabouts of the parents bore no fruits prompting the child to be temporarily placed at Happy Life Children's Home for care and protection.
 5. Thereafter, the child was formally committed to the same Institution pursuant to Court Order issued by the Chief Magistrate's Court sitting at Ruiru on 14th June 2023, Vide Care and Protection Case Number E 011 of 2023.
 6. Change Trust Adoption Society, through their committee sitting on 22nd June 2023, confirmed that they had assessed the Applicants and found them suitable adoptive parents having met the legal requirements therefore declared the child free for adoption vide certificate serial Number 0XXXX. That on 10th February 2024, the child was placed with the Applicants for mandatory bonding.
 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. EK, the Assistant Director Children Services submitted a favourable report dated 13th December 2024, during his visit he observed a child who has bonded well with the Applicants as well as their other children. He also noted that the child is healthy, well fed and clothed. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-30XXXX and PCC-30XXXX respectively. They are financially stable and are mentally stable. Having met all the legal requirements for local adoption as stipulated in the *Children Act* 2022, Mr. Kimani recommends the adoption process.
 8. LW, Guardian Ad Litem, presented report dated 21st January 2025, in which during her visit, she observed the child created a strong bond with the Applicants therefore, and recommending the Applicants to adopt the child since it is in the child's best interests.
 9. MMG and KNM proposed Legal Guardian testified in Court, they are married and the 2nd Applicant is a sister to Keziah Nyabucha Muniu. They consented appointment as the legal guardians for the minor. They understand the legal implications and they will assume full parental responsibility in the event the Applicants are unable to discharge their responsibilities.
 10. The minor was also in Court and it was observed that the minor bonded well with both 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 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 Ordersthat;
- a. The Applicants, JMM and EMM are hereby allowed to adopt BD (The Child).
 - b. Henceforth, the child shall be known as MBNM.
 - c. Her date of birth shall be 27th December, 2022 at Nairobi County.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. MMG and KNM are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register and subsequently issue a certificate in respect of the minor as required.
 - g. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - 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.

M. NYAUNDI

JUDGE

In the presence of:



Ms. Wanjala holding brief Ms. Nderu for Applicant
Fardosa Court Assistant

