



REPUBLIC OF KENYA



**In re NSB alias NEC (The Child) (Adoption Cause E175 of 2024)
[2025] KEHC 8317 (KLR) (Family) (13 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8317 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E175 OF 2024
PM NYAUNDI, J
JUNE 13, 2025
IN THE MATTER OF THE CHILDRENS ACT 2022
AND**

IN THE MATTER OF

AYO APPLICANT

JUDGMENT

1. Vide Exparte Originating Summons, dated 26th August, 2024 the Applicant seeks the following orders, that:-
 - i. Spent.
 - ii. JMO be appointed Legal Guardian of the minor
 - iii. Spent
 - iv. The Applicant be authorized to adopt THA
 - v. The Applicant herein be granted Adoption orders in respect of NSB alias NEC, the minor herein.
 - vi. The Court does issue such further orders as it may deem fit in the interest of the child.
2. The Applicant is a single Kenyan Citizenship residing in Nyakach, Kisumu. She is a teacher by profession. The minor is 5 years. She has had custody since 2019. The Applicant has a Partner/ spouse (WOO he has consented to the Adoption proceedings.
3. NSB alias NEC The (child herein) is 5 years old, presumed to be born on 12th September, 2019 at Jamii Medical Centre to SK and BGK who are related, this is considered taboo in their customs and for this reason they offered the child for adoption.



4. The minor's parents approached the Little Angels Network Kisumu Office and they were guided through the process, later they willingly signed the Certificate of Acknowledgment and Initial consents dated 19th September, 2019 surrendering the child for adoption.
5. Consequently, the child was placed at Springs of Life Children's Home pending committal and on 30th March 2021, Pursuant to order by Resident Magistrate's Court sitting in Vihiga the child was committed to the same Institution vide Protection and Care case number 23/2021.
6. Further Springs of Life Children's Home reports that during the minor's stay in the Institution, no parent or relative turned up to claim the child, and neither did they receive any information from the Department of Children's Services and the Police Department regarding any claimants.
7. Little Angels Network Case Committee sitting on 5th May 2021 assessed the application and was satisfied that the Applicant was suitable adoptive parent and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide Freeing Certificate Serial Number 00XXXXX64.
8. 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. This being a local adoption where the child is being adopted by the Applicant, it will be the best interest of the child.
9. The Assistant Director Children Services, Mrs. Kinya submitted a report dated 8th April 2025. She stated that the Applicant is financially stable to take good care of the child. She is mentally sound. The Applicant is clear of any criminal claim as evidenced by Certificate of Good Conduct PCC-AAXXXXR8.
10. The Applicant's brother (JMO) is proposed to be the Legal Guardian. The Officer further asserted that the Applicant has met the legal requirements for Local adoption as stipulated by the *Children Act* 2022 thus recommended the adoption process.
11. JAO, the guardian ad Litem also submitted a positive report dated 19th November, 2024 where she recommended the adoption proceedings.
12. JMO testified in Court that the Applicant is his sister, he is not married and he has consented to be Legal Guardian in the event the Applicant is unable to discharge her responsibilities as he will assume full parental responsibility according to adoption orders.
13. The Court also interviewed the child and she stated that she is 5 years old, attends to school, she was very jovial, referred the Applicant as her mummy hence evident that the minor bonded well with the Applicant.

Determination

14. After carefully assessing the records herein, I am satisfied that the Applicant has 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.
15. 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.
16. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has 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. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents signed by both biological parents for this Adoption have been filed.
17. 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.”
18. 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 Applicant, AYO is hereby allowed to adopt BABY NSB alias NEC.
 - b. Her date of birth shall be 12TH September, 2019 at Jamii Medical Centre.
 - c. She is presumed to be a Citizen of Kenya by birth.
 - d. JMO is hereby appointed as Legal Guardian of the child.
 - e. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue the child with the requisite certificate.
 - g. 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. Atieno for Applicant

Fardosa Court Assistant

