



**In re THA (Child) (Adoption Cause E104 of 2024)
[2025] KEHC 8330 (KLR) (Family) (13 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8330 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E104 OF 2024
PM NYAUNDI, J
JUNE 13, 2025
IN THE MATTER OF THE CHILDRENS ACT 2022
IN THE MATTER OF THA**

IN THE MATTER OF

**EWM 1ST APPLICANT
JCMM 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 4th April, 2024 the Applicants herein seek the following orders, That:-
 - i. Spent.
 - ii. Spent
 - iii. The Applicant be authorized to adopt THA
 - iv. The Registrar General be directed to enter the adoption in the Adopted Children Register.
 - v. The Director of Immigration be authorized to issue the child with a Passport.
 - vi. The 1st Applicant's sister, RSB be appointed the legal guardian of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
 - vii. The Court be pleased to make any further orders it deems necessary.
2. This is a joint Application. The 1st Applicant holds a dual citizenship both in Kenya and United Kingdom while the 2nd Applicant is a United Kingdom Citizen. The Applicants have been married



since 9th September 2004 as per annexed Marriage Certificate Serial No. 0XXXX. They reside in United Kingdom. The Applicants are in gainful employment. The 1st Applicant work at Arthur Rank Hospice Charity while the 2nd Applicant work at Qualcomm, UK as a Software Engineer.

3. It's the 1st Applicant's averment that the child herewith is her grandchild, the child is 9 years old and stays with her sister in Ruaka. The Applicants have a strong desire to provide the child with opportunities available in the UK. That the biological parents have both consented to the adoption proceedings. 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. The child herein (THA) is 8 years old, presumed to be born on 20th February, 2016 at St. Mary's Mission Hospital, to TAO and MKMK is the biological son of the 1st Applicant.
5. The child's parents approached Buckner Kenya Adoption Services with intention to give up their child for adoption. In their letter, they stated that they have tried their best to cater for the child's needs but have struggled to provide the baby with the best hence the adoption proceedings by the Applicants. Subsequently, they were taken through the explanatory memorandum and they duly signed the Certificate of Acknowledgement dated 14th February 2024.
6. Consequently, Buckner Kenya Adoption Service Case Committee sitting on 16th February, 2024 assessed the application and was satisfied that the Applicants and found them suitable adoptive parents 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 0XXXX.
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. This being a Kinship adoption where the child is being adopted by her maternal grandmother, it will be the best interest of the child.
8. The Assistant Director Children Services, Ezekiel Kimani submitted a favourable report dated 22nd November 2024, during his visit he noted the Applicants are financially stable to take good care of the child. They are mentally sound. The Applicants are clear of any criminal claim as evidenced by Certificate of Good Conduct marked "EJ-9" from London UK investigating Office purporting that no criminal record was found for both Applicants. The 1st Applicant's sister (RSB) was appointed to be the Legal Guardian in the event the Applicants are unable to discharge their responsibilities as she will assume full parental responsibility according to adoption orders. The Officer further averred that the Applicants have met the legal requirements for Kinship adoption as stipulated by the [Children Act 2022](#) thus recommended the adoption process.
9. JNW (Guardian Ad litem) also prepared a report dated 5th December, 2024 recommending the Applicants to adopt the child.
10. The Court also interviewed the child and she stated that she is 9 years old, attends to school called [particulars withheld] School and in Grade 4 East. She further stated that she recognizes the 1st Applicant as her grandmother who lives in UK. The child also stated that she lives with her other grandmother who is called Sophie. She further acknowledges the 2nd Applicant as her step grandfather who lives together with her grandmother 1st Applicant in UK. The child is aware of the adoption proceedings in Court and she is very happy for the Adoption hence Adoption.
11. The Biological parents of the minor, TAO (Mother) and MK (Father) attended Court, confirmed they understand the proceedings and issued consent to the adoption. The maternal grandfather of the minor was also present in Court and confirmed that he gave his consent to the adoption.



Determination

12. 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) 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.
13. 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.
14. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicants have fulfilled all the legal requirements of a Kinship 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 Applicants are 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.
15. 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.”
16. 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, EWM and JCMM are hereby allowed to adopt Baby THA.
 - b. Her date of birth shall be 20th February, 2016 at St. Mary's Mission Hospital.
 - c. She is presumed to be a Citizen of Kenya by birth.
 - d. Rose Sidi Baya is hereby appointed as the 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:

No appearance by parties

Fardosa Court Assistant

