



REPUBLIC OF KENYA



**In re Baby H alias HN (Adoption Cause E043 of 2025)
[2025] KEHC 8736 (KLR) (Family) (5 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8736 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E043 OF 2025
CJ KENDAGOR, J
JUNE 5, 2025
IN THE MATTER OF THE CHILDREN ACT
IN THE MATTER OF BABY H. ALIAS H.N.
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY J.J.O.**

JUDGMENT

1. Before this Court is the application dated 26th February, 2025. The Applicant JJO is seeking to be authorized to adopt Baby H alias HN hereinafter referred to as the child and upon adoption, the child is to be known as EEA. The Applicant has nominated JAO and SAO to be appointed as the child's legal guardians upon granting of the adoption orders.
2. The Applicant is a Kenyan citizen, as evidenced by her Kenyan National Identity Card. From the application submitted herein and the pre-placement report by Little Angels Network, it is noted that the Applicant is employed as an [particulars withheld]. She resides in a house with reliable and adequate utilities and is conveniently located near social amenities. Additionally, she owns several assets. Her health status is good, as evidenced by her medical reports, and she does not have any previous criminal records, as indicated by her Police Clearance Certificate issued by the Directorate of Criminal Investigations. The applicant desires to adopt a female child and to grow her family. Her references have vouched for her character and means in relation to being a suitable adoptive parent. The Applicant wishes to embrace motherhood and provide the child an opportunity for a better life.
3. A letter dated 6th November, 2023 from the Assistant Chief of Acacia Sub-Location indicates that the child is female. On 12th October, 2023, the child was discovered at Checheles B near a family grave and was subsequently taken to Isiolo Referral Hospital. The child was placed in Neema House Infant Rescue Centre following a recommendation from the Ministry of Labour and Social Protection, Isiolo Sub-County, in a letter from the Children's Officer dated 3rd November, 2023. The child was later



declared free for adoption by Little Angels Network on 7th November 2024, vide Freeing Certificate Serial Number XXXXX.

4. Pending the hearing of the application before this Court, PNK was appointed as Guardian Ad Litem for the child. She provided a positive report stating that the applicant was a suitable match for the child's adoption.
5. SAO and JAO, the proposed legal guardians of the Child, are the Applicant's mother and sister. Both are financially stable and have expressed that they care deeply for the minor. They attended court on 9th May, 2025 and affirmed their commitment to serve as legal guardians. They have interacted with the child and demonstrated an understanding of the role of a legal guardian. The child is largely accepted by the extended family.
6. The Applicant would like to legalize the relationship between her and Baby H alias HN through adoption to enable the child become a complete member of her family.
7. In light of the best interests of the child principle provided for under Article 53 (2) of *the Constitution* of Kenya, 2010. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* and the 1st Schedule of the Children's *Act No. 29 of 2022*, this Court has an obligation to prioritize the child's best interests in making decisions touching on her.
 - a. Article 53 of *the Constitution*, 2010 states that a child's best interests are of paramount importance in every matter concerning the child.
 - b. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* provides as follows;
 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies:
 - a. The best interests of the child shall be the primary consideration;
 - b. The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.
 2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to:-
 - a. safeguard and promote the rights and welfare of the child;
 - b. conserve and promote the welfare of the child; and
 - c. secure for the child such guidance and correction as is necessary for the welfare of the child, and in public interest.
 3. In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the child's age and degree of maturity.
 - c. The First Schedule as provided for under Section 8 (1) of the Children's *Act No. 29 of 2022* provides best interests considerations to be as follows:
 1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the child.



2. Distinct special needs (if any) arising from chronic ailment or disability.
 3. The relationship of the child with the child's parent(s) and/or guardian(s) and any other persons who may significantly affect the child's welfare.
 4. The preference of the child, if old enough to express a meaningful preference.
 5. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.
 6. The stability of any proposed living arrangements for the child.
 7. The motivation of the parties involved and their capacities to give the child love, affection and guidance.
 8. The child's adjustment to the child's present home, school and community.
 9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the child and the other parent and/or guardian(s), including physical access.
 10. The capacity of each parent and/or guardian(s) to cooperate or to learn to cooperate in child care.
 11. Methods for assisting parental and/or guardian cooperation and resolving disputes and each parent's/guardian's willingness to use those methods.
 12. The effect of the child if one parent/guardian has sole authority over the child's upbringing.
 13. The existence of domestic abuse between the parents/guardian (s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the child.
 14. The existence of any history of child abuse by a parent and/or guardian(s); or anyone residing in the same dwelling as the child.
 15. Where the child is under one year of age, whether the child is being breast- ed.
 16. The existence of a parent's(s) or guardian's(s) conviction for a sex offense or a sexually violent offense under the *Sexual Offences Act*.
 17. Where there is a person residing with a parent or guardian, whether that person; -
 - a. Has been convicted of a crime under this Act, the *Sexual Offences Act*, the *Penal Code* or any other legislation.
 - b. Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.
 18. Any other factor which may have a direct or indirect effect on the physical and psychological well -being of the child.
8. The letter from the Ministry of Labour and Social Protection State Department of Social Protection - Directorate of Children's Services, the report from Little Angels Network, the guardian ad litem and



the proposed legal guardians indicate that the child will be well taken care of in the care and custody of the adoptive parent.

9. Having considered the matter, I am satisfied that the application is made in good faith. I am also of the opinion that this adoption will provide the child with an opportunity for a better life and education in a loving and stable environment with the adoptive parent.
10. In the circumstances, I allow the Originating Summons dated 26th February, 2025 and make the following orders:
 - a. Baby H, also known as HN, is presumed to be a Kenyan citizen by birth and is therefore entitled to all associated rights.
 - b. The Applicant JJO is authorized to adopt the child known as Baby H alias HN.
 - c. The child will henceforth be known as EEA.
 - d. SAO and JAO are appointed as legal guardians of the child.
 - e. The Registrar General is directed to make the relevant entries in the Adopted Children's Register in respect of the child.
 - f. The Registrar of births and deaths is directed to issue a birth certificate in respect of the child's new name.
11. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 5TH DAY OF JUNE, 2025.

.....
C. KENDAGOR
JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Ambaka, Advocate for the Applicant

