



In re D alias Baby DH alias DH alias Unknown D (Child) (Adoption Cause E007 of 2024) [2025] KEHC 10988 (KLR) (25 July 2025) (Judgment)

Neutral citation: [2025] KEHC 10988 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
ADOPTION CAUSE E007 OF 2024**

MA ODERO, J

JULY 25, 2025

**IN THE MATTER OF ADOPTION OF BABY D ALIAS
BABY DH ALIAS DH ALIAS UNKNOWN D.....THE CHILD**

IN THE MATTER OF

FKM APPLICANT

JUDGMENT

1. The Applicant FKM has filed the

Originating Summons dated 6th June 2024 seeking the following orders:-

- “1. Spent.
2. Spent.
3. That the Applicant be authorized to adopt abandoned Baby Girl, alias Baby D alias Baby DH alias DH alias Unknown D to be known as PFK.
4. That the child be presumed a Kenyan citizen by birth.
5. That the child’s date of birth be 24th April 2018 and the place of birth be Nairobi County.
6. That the Registrar General be directed to enter the adoption in the Adopted Children Register.
7. That the Director Immigration be authorized to issue the child with a Kenyan passport.
8. That the Applicant’s sister HKM and her husband JMM be appointed the legal guardians of the child in the event of the death or incapacity of the Applicant before the child is of age or independent.



9. That the court be pleased to make any further orders it may deem necessary.
2. The application was supported by the statement of even date sworn by the Applicant. The matter was canvassed by way of *Vive Voce* evidence.
3. The Applicant told the court, that she was a single woman, who has never been married and who has no biological child of her own. She now seeks to adopt the subject child out of her desire to have a family of her own.
4. The Applicant confirmed that she understood the legal implications of an adoption order. She undertook to accord to the subject child all rights due to a biological child.

Analysis and Determination

5. I have considered this application for adoption, the evidence adduced in support thereof as well as the various reports filed in court.
6. The prerequisites for adoption are set out in Section 184 (1) (a) and (b) of the *Childrens Act* 2022 as follows:-
 - “(1) A person shall not commence any arrangement for the adoption of a child unless:-
 - a. The council, in accordance with the rules, has declared the child free for adoption.
 - b. The child has attained the age of six weeks.”
7. The subject child is believed to have been born on or about 24th April 2018. She is therefore now aged seven (7) years old and is well above the six (6) week age limit provided for in law.
8. Change Trust which is a registered adoption agency have annexed to their report their certificate Serial No. 00XXXXX8, dated 23rd November 2018 declaring the child Free for Adoption. (Annexure ‘FKM-5’) As such I am satisfied that all the legal prerequisites for an adoption order have been met.
9. The duty of this court is to analyse the evidence on record to determine whether the Applicant is a suitable adoptive parent.
10. The Applicant is a Kenyan citizen as evidenced by the copy of her National Identity Card annexed to the Summons (Annexure ‘FKM 6’)
11. The Applicant is a single woman who has never been married and has no biological child. She seeks to adopt the subject child in order to fulfil her desire to have a child of her own.
12. The Applicant is a trader who has a Textile shop at the [Particulars Withheld] New Market. She has annexed copies of her M-Pesa statements which indicate that she is financially stable and has the capacity to provide for the needs of the child.
13. The Applicant is a Christian who worships at the Pentecostal Church. and she intends to raise the child as a Christian.
14. The Applicant has annexed copies of her medical reports proving that she is both physically and mentally sound. She has also annexed a copy of a clearance certificate issued to her by the Director Criminal Investigations proving that she does not have a criminal record (Annexure FKM - ‘9’)



15. The Applicant stated that she has informed her family of her intention to adopt the child and states that they have received the child positively. She has appointed her sister and brother-in-law as the legal guardians for the child. The proposed legal guardians HKM and JMM have both signed a consent dated 11th June 2024 indicating their willingness to be appointed as the legal guardian for the child.
16. Based on the above I am satisfied that the Applicant is a suitable adoptive parent.
17. The subject child is a girl child who was abandoned at birth at a place known as [Particulars Withheld] in the Kawangware area of Nairobi County. The baby was rescued by good Samaritans who reported the matter at Mathangari Police Station vide OB No. 17 of 22nd April 2018. Thereafter the Nairobi Childrens Court, on 25th July 2018 committed the child to H House Babies Home for care and protection. On 16th December 2018 the child was released into the custody of the Applicant under a Foster Care arrangement.
18. 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.”
19. The subject child was found abandoned at birth in Nairobi County within the Republic of Kenya. I therefore declare the child to be a Kenyan citizen by birth.
20. Efforts by police to trace the biological mother of the child have borne no fruit. To date no person has come forward to claim the child. A final police letter dated 31st October 2018 appears as Annexure FKM ‘4’ to the Summons.
21. Given the fact of her abandonment, there exists no known person from whom consent for this adoption can be sought and/or obtained. I therefore waive the requirement for consent in line with Section 187(1) of the Children Act.
22. In deciding upon any matter involving a child, courts are obliged to give priority to the ‘best interests’ of the said child. Section 8(1) of the Children Act 2022 provides that:-
- “(8) 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 priority consideration” [Own emphasis]
23. This is a child who was abandoned at birth. She faced an uncertain future living in childrens homes/ institutions. This adoption provides the child with the opportunity to be raised in a loving and stable home environment.
24. I was able to see the child in court. She was a healthy happy little girl who confidently answered all questions put to her. The child identified the Applicant as her mother. The child is obviously well care for.
25. The childrens office conducted a home visit. The Applicant lives at the Sportsman Arms Area in [Particulars Withheld] in a well secured compound of fourteen (14) houses. The home was found to be suitable for raising a young child.



26. I have perused the reports prepared by the Guardian *Ad Litem*, the Adoption Agency and the Director Childrens Services. All three reports were positive and all recommended the adoption.
27. This is a child who was abandoned at birth. Her biological mother was unable or unwilling to care for the child. She faced an uncertain future living in childrens homes and other similar institutions. This adoption provides the child with the opportunity to be raised in a loving and secure home environment.
28. The child has lived with the Applicant since December 2018 a period of about seven (7) years. She has bonded with the Applicant whom she views as her mother. I find that this adoption is in the best interest of the subject child.
29. Finally this court allows this application and makes the following orders;-
- (1) The Applicant FKM is authorized to adopt the child known as Abandoned Baby Girl alias Baby D, alias Baby DH alias H alias Unknown D.
 - (2) Upon adoption the child shall be known as PFK.
 - (3) The child is declared to be a Kenya citizen by birth and is entitled to all the rights and benefits in respect thereto.
 - (4) HKM and JMM are appointed as the joint legal guardians for the child.
 - (5) The Registrar General is directed to make the relevant entry in the Adopted Childrens Register.
 - (6) No orders on costs.

DATED IN NYERI THIS 25TH DAY OF JULY, 2025.

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MAUREEN A. ODERO

JUDGE

