



REPUBLIC OF KENYA



**In re SM (Minor) (Adoption Cause E226 of 2022)
[2025] KEHC 10965 (KLR) (Family) (25 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10965 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E226 OF 2022
PM NYAUNDI, J
JULY 25, 2025
IN THE MATTER OF THE CHILDREN’S ACT NO. 29 OF 2022 LAWS OF KENYA
AND
IN THE MATTER OF SM (MINOR)
IN THE MATTER OF AN APPLICATION FOR
ORDER OF ADOPTION OF THE CHILD BY NMA

IN THE MATTER OF
NMA APPLICANT**

JUDGMENT

1. *Vide* Originating Summons, dated 7th December, 2022 the Applicant herein seeks the following orders, that:-
 - i. NMA of Post Office Box Number 76XXXX9-00508 Nairobi be appointed as the legal and sole guardian to the child in this suit.
 - ii. The Applicant cause be authorized to adopt the child currently known as SM.
 - iii. Upon the making of the adoption order, the child to retain her current names SMA.
 - iv. The Registrar General makes the appropriate entries in the Adopted Children Register.
2. The Applicant is a single Kenyan Citizen residing in Nairobi County. She is in gainful employment. The Applicant has means to provide for the child. She has four (4) biological children. She has had custody since August, 2020. The minor is 6 years old. The Applicant understands the implications of the adoption order, she is aware that the child will have full rights as would a biological child and the order is not reversible.



3. The minor herein (Baby SM) is presumed to have been born on 6th July, 2020. The child was found abandoned at a hospital in Garissa County moments after delivery by Garissa Rescue Center. The minor was taken for medical examination where she was treated for pneumonia. Later she was discharged to the same facility. M (Guardian Ad litem) engaged with the said organization in supporting the minor and the child was released to her. Thereafter, the Applicant being a friend M took over the child's responsibility.
4. A report from Little Angels Network was filed in Court after the Applicant was assessed and freed the child for adoption vide freeing certificate dated 20th February, another report dated 5th March, 2024 submitted by Lynnette Itumo from Children's Officer Kamukunji noted a strong bond have developed between the child; Applicant and the other children. The child looks healthy and happy. The minor has been enrolled to school. She also noted that no one has claimed the minor. The Applicant has met all legal requirements for local adoption as stipulated in the Children Act 2022. She is socially, emotionally and financially stable. It would be in the best interest of the child thus recommending the adoption process.
5. Guardian Ad litem, MHD, presented report dated 30th November, 2023 in which she observed that the child is fully settled and well taken care of. The child has bonded well with the Applicant the Applicant's extended families therefore recommending the Adoption.
6. Proposed Legal Guardian (HFB) testified in Court that the Applicant is her step-daughter. She consented to be the legal guardian for the minor. She understands the legal implications and she will assume full parental responsibilities in the event the Applicant is unable to discharge her responsibilities.
7. The Court observed the minor and noted that she has acknowledged Applicant as her mother as well as having a strong bond with the Applicant.

Determination

8. 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.
9. 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.



10. 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. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. The Court observed that the child was comfortable with the Applicant. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
11. 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.”
12. 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, NMA is hereby allowed to adopt BABY SM.
 - b. Henceforth, the child shall be known as SMA.
 - c. Her date of birth shall be 6th July, 2020.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. HFB is hereby appointed as Legal Guardian of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register.
 - g. The Registrar General is authorized to issue the child with Birth Certificate.
 - h. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - i. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 25TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Mwachogu for Applicant

Fardosa Court Assistant

