



REPUBLIC OF KENYA



**In re Baby ENN (Adoption Cause E067 of 2022)
[2025] KEHC 10403 (KLR) (Family) (18 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10403 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E067 OF 2022
PM NYAUNDI, J
JULY 18, 2025
IN THE MATTER OF CHILDRENS ACT
AND
IN THE MATTER OF BABY ENN
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY JNM AND JNO
JUDGMENT**

1. Vide Originating Summons, dated 6th May, 2022 the Applicants herein seek the following orders, That:-
 - i. The consent of the biological father of the child is attached and the consent of the biological mother be dispensed with since said mother abandoned the child immediately after birth hence relinquishing her parental rights, abandoned the minor and the child has remained in the sole custody of the biological father.
 - ii. The Applicants JNM and JNO be allowed to adopt Baby ENN.
 - iii. The Registrar – General do make the appropriate entries in the Adopted Children’s Registrar in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.
2. That on 17th October 2024, Nyangoro Advocate for the Applicants amended the Originating Summons to include a prayer for INO to be appointed as Legal Guardian of the minor.
3. The Applicants are Kenyan Citizens by birth residing in Texas, USA and have residence in [particulars withheld], Nairobi. They are legally married as evidenced by annexed copy of marriage certificate serial number 48XX75. The Applicants are in gainful employment and able to cater for needs of the minor. The Applicants have their own biological children. The minor is nephew to JNO (2nd Applicant). The



Applicants desire to give love and affection to the child. They have bonded well with the child as well as their extended family members including their biological children.

4. They have had custody since February, 2018. The child is 15 years old. They both understand the legal 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.
5. Baby ENN (Minor) is presumed to have been born on 5th September 2009, to GNK and VMO. It is said that the parents separated when the minor was young and whereabouts of the mother remain unknown. The 2nd Applicant took the minor in after his father was unable to provide for the minor.
6. Consequently, the Applicants felt the desire of legalizing the relationship between them and the child herein so that he grows up in a normal stable family and continue raising him thus prompting them to approach KKPI Adoption Society. They were given explanatory memorandum together with the minor's biological father where after an assessment and approval by the Agency, the father consented to the adoption process. Further, KKPI Adoption Society, declared the child free for adoption on 17th January, 2022 vide Freeing Certificate Serial Number xxx.
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. EK, the Assistant Director Children Services submitted a report dated 25th October 2023, during his visit, he confirmed that the Applicants are socially and mentally stable, they are financially secure to take good care of the child. The Applicants are clear of any criminal claim as evidenced by police clearance certificates. Having met all the legal requirements for Kinship adoption as stipulated in the [Children Act](#) 2022, Mr. Kimani recommends the adoption process.
8. INO proposed Legal Guardians testified in Court that the 2nd Applicant is his sister therefore consenting to be the legal guardian for the minor. He also averred that he understands the legal implications hence he will assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.
9. The Court interviewed the minor and it was observed that he understands he is in court for adoption process where he consented.

Determination.

10. 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)
 - (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.
11. 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.
12. 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 both Applicants are qualified and able to take care of the child. The minors' biological parents' consent has been dispensed with, as per Section 187 of the Children's Act 2022. All the necessary Reports and consents required for this Adoption have been filed. 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.”
13. 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, JNM and JNO are hereby allowed to adopt baby ENN (Minor).
 - b. Henceforth be called EN.
 - c. His date of birth shall be 5th September, 2009.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. INO 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 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 18TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

No appearance by parties

Fardosa Court Assistant

