



**In re Baby EG (Minor) (Adoption Cause E035 of 2025)
[2025] KEHC 10870 (KLR) (Family) (17 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10870 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E035 OF 2025

CJ KENDAGOR, J

JULY 17, 2025

IN THE MATTER OF THE CHILDREN ACT 2022

AND

IN THE MATTER OF BABY EG (MINOR)

IN THE MATTER OF

JMK 1ST APPLICANT

JMM 2ND APPLICANT

JUDGMENT

1. Before this Court is an Originating Summons dated 10th January, 2025. The Applicants JMK & JMM are seeking to be authorized to adopt Baby EG hereinafter referred to as (“the child”) and upon adoption, the child is to be known as MBJ. GNC be appointed as the child’s legal guardian upon granting of the adoption orders.
2. The Applicants are a married couple and Kenyan citizens as evidenced by copies of their Kenyan National Identity Cards. JMK is a businessman and JMM is a business lady, they run a hardware shop where they derive their income and hence their financial capability and ability to provide for the child as evidenced by copies of Mpesa statements. They do not have any previous criminal records as evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have indicated that they have always wanted to have children but due to reasons beyond their control, they have not been able to do so hence their decision to adopt and give love, sense of identity, security, stability and a sense of belonging to a needy child just like any other child born in a family and in addition, they expressed their desire to grow their family and bless someone who will maintain their generation. The child has been in their custody since 24th December, 2020. They have indicated that



they understand the adoption process and its legal implications. They have positive recommendations from their family members, their friends and their Pastor who all support the same. The baby who was present on the call looked healthy and happy.

3. GNC who is the proposed Legal guardian told the Court that she understands her role and is ready to undertake that responsibility as the legal guardian.
4. The report from the Ministry of Labour and Social Protection State Department of Children Welfare Services (Nairobi County) dated 16th June, 2025 indicates that the child is 5 years old having been presumed to have been born on 1st May, 2020. He is Kenyan, who was found abandoned on 7th May, 2020 at Giakairu estate in Karatina and the matter was reported at Karatina Police Station. The efforts to trace the baby's parents were unsuccessful. The child was declared free for adoption on 25th November, 2020 by KKPI Adoption Agency *vide* freeing certificate number 736.
5. The child is a Kenyan citizen by virtue of Article 14 (1) which provides that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.
6. 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 him.
 - 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- fed.
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.



7. The report from the Ministry of Labour and Social Protection State Department of Children Welfare Services (Nairobi County), the report from the KKPI Adoption Society, the guardian ad litem and the proposed legal guardian indicate that the child is well known to the adoptive parents and that he will be well taken care of in their care and custody.
8. I am satisfied that the Applicants have genuine desire to adopt the child. They are suitable as adoptive parents.
9. I find that this adoption gives the child a chance at a better life and education in a loving and stable home with the adoptive parents. I do not doubt that the child has bonded with the Applicants.
10. Based on the foregoing, I am satisfied that this adoption serves the child's best interests. As such, I do allow this application and make the following orders:
 - a. The Applicants JMK and JMM are hereby authorized to adopt the child known as Baby EG.
 - b. Upon adoption, the child shall be known as MBJ.
 - c. The Registrar General shall enter the adoption into the Register of Adoptions.
 - d. The child is presumed to have been born in Kenya.
 - e. GNC is hereby appointed as the legal guardian of the child.
 - f. The guardian ad litem is hereby discharged.
11. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 17TH JULY, 2025**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Wairimu, Advocate for the Applicant

