



REPUBLIC OF KENYA



In re Abandoned Baby Boy alias Baby LP (The Child) (Adoption Cause E015 of 2025) [2025] KEHC 9975 (KLR) (Family) (10 July 2025) (Judgment)

Neutral citation: [2025] KEHC 9975 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

ADOPTION CAUSE E015 OF 2025

PM NYAUNDI, J

JULY 10, 2025

**IN THE MATTER OF ABANDONED BABY BOY ALIAS ABANDONED AFRICAN MALE
CHILD ALIAS BABY LP(CHILD)**

IN THE MATTER OF

BWKM 1ST APPLICANT

CMM 2ND APPLICANT

JUDGMENT

1. Vide Amended Originating Summons, dated 10th June, 2025 the Applicants herein seek the following orders, that:-
 - i. Spent
 - ii. Spent
 - iii. The Applicants be authorized to adopt Abandoned Baby Boy alias Abandoned African Male Child alias Baby LP to be known as LPMM.
 - iv. The child be presumed a Kenyan Citizen by birth.
 - v. The child's date of birth be 31st July, 2014 and the place of birth be Roysambu.
 - vi. The Registrar General be directed to enter the adoption in the Adopted Children Register.
 - vii. The Director Immigration be authorized to issue the child with a Kenyan Passport.
 - viii. DGM and LWG be appointed the legal guardians of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.



- ix. The Court be pleased to make any further orders it deems necessary.
2. BWKM (1st Applicant) is a Kenyan Citizen by birth while CMM (2nd Applicant) is a French National. They are legally married and they have been living together as per the annexed Marriage Certificate Serial Number 14XXXX. Both Applicants are in gainful employment to take good care of the child. The 1st Applicant is a Consultant at International Rescue and the 2nd Applicant is a retired Engineer. They do not have biological children.
 3. They have had custody of the minor for more than eight (8) months. The minor is turning 11 years old. They both understand the 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.
 4. Abandoned Baby Boy Alias Abandoned African Male Child Alias Baby LP(child herein) is presumed to have been born on 31st July, 2014. The baby was found abandoned by a Good Samaritan on 1st August, 2015 in a toilet at Silanga in Kibera Slums. The child was admitted to Kenyatta National Hospital for medical checkup. Thereafter, a report was made at Kilimani Police Station vide OB Number XXXX/09/2014. However, the child was formally committed to New Life Home Trust for care and protection pursuant to Court Order issued by the Resident Magistrate Children's Court sitting at Nairobi on 28th July, 2017 Vide P&C File No. 10 of 2015. Later, the Kilimani Police Station investigated and issued a final letter dated 17th June 2015, confirming that efforts to trace the parents were futile. Thereafter, the child was transferred to Kings Kids Children's Home as he had exceeded the age limit for residency at New Life Home Trust per the annexed copy of admission form.
 5. It's the Applicants disposition that they felt the urge of legalizing the relationship between them and the child so that he grows up in a normal stable family and continue raising him, thus resulted them to approach Little Angels Network. The Adoption Society interviewed the minor's biological mother where she was taken through Explanatory Memorandum to which she consented and signed the Certificate of Acknowledgment. After lengthy discussion, the minor's consent was also obtained.
 6. Further the Case Committee meeting held on 11th October, 2023 was satisfied that the child is available for adoption and that adoption would be in the child's best interest thus declared the child free for adoption vide Free Certificate Serial Number 002409.
 7. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants recommending that this Court allows the Applicants to adopt the child. Damaris Kobonah, Children Officer submitted a report dated 14th April 2025. She asserted that the Applicants are financially stable, medically and physically fit to take care of the child. She also asserted that the Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-M7XXXX and CEXXXX. They are financially stable and are mentally stable. Although the 2nd Applicant is a foreigner who is not allowed to adopt according to Section 186 (6) (f) of the Children's Act, the child had almost lost hope of getting a family lucky he found the Applicants who willfully took him for adoption thus recommending the adoption process.
 8. A report dated 23rd March, 2025 from Guardian *ad litem*, SM affirmed that the child has fully bonded well with the Applicants. The child will get benefits from the Applicants as it will offer an opportunity of growing up in a stable family and in conducive environment therefore recommending the Adoption.
 9. Proposed Legal Guardians DGM and LWG testified in Court that the Applicants are their long term friends for more than 35 years. They are husband and wife residing in Nairobi County. They have 2 children. They consented to be the legal guardians for the minor. It's their disposition that they



understand the legal implications as they will assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.

10. The Court also interviewed the minor and it was observed that he recognizes the Applicants as his parents and understands the adoption proceedings which he consented.

Determination

11. Applying the definition in Section 183 of the Act, to the present circumstances, it is clear that this is a foreign adoption. As indicated in the *Children Act* 2022 under, Section 183 (4) (c) (i) “foreign adoption” means an adoption in relation to which —

- i. the adopting parent or parents are Kenyan nationals;

It’s evident that the 1st Applicant is Kenyan, while the 2nd Applicant is a French National legally married and they have been living together.

12. Subsequently, in the matter regarding *Adoption Cause E 002 of 2024* eKLR, a case that was directly similar to the present case, Hon. M. Thande held as follows:

Section 183(1) empowers the Court to, on an application made in the prescribed form, make an order, in this Act referred to as "adoption order", authorising an applicant to adopt a child. Among the adoption orders that may be made under this provision, is one relating to an applicant or applicants who are foreign nationals whether or not resident in Kenya.

13. 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.

14. 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 (2) *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.

15. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicants have 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. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. 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.”

16. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with ordersthat;
- a. The Applicants, BWKM and CMM are hereby allowed to adopt Abandoned Baby Boy alias Abandoned African Male Child alias Baby LP (hereinafter the child).
 - b. Henceforth be called LPMM.
 - c. His date of birth shall be 31ST JULY, 2014 at Roysambu.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. DGM and LWG are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register.
 - g. The Registrar General do issue the child with requisite 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 10TH DAY OF JULY, 2025.

M. NYAUNDI

JUDGE

In the presence of:

Ms. Kiguatha for Applicants

Fardosa Court Assistant

