



**In re SW (Adoption Cause E294 of 2024)
[2025] KEHC 10007 (KLR) (Family) (10 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10007 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E294 OF 2024
PM NYAUNDI, J
JULY 10, 2025**

IN THE MATTER OF

JPWK 1ST APPLICANT

MM 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 21st November, 2024 the Applicants herein seek the following orders, that:-
 - i. This Honourable Court be pleased to appoint JPWK and MM of Post Office Box Number 13XX2-00X00, Nairobi as “Guardians Ad litem” for the above-named minor; namely SW, during the hearing of this Adoption Cause.
 - ii. The Applicants JPWK and MM be authorized to adopt SW upon the making of an adoption order by this Honourable Court.
 - iii. KWM and FMK be appointed “Guardians Ad litem” to SW in the event the Applicants being the adopters herein jointly die or become permanently incapacitated before the infant attains full age.
 - iv. This Honourable Court be pleased to grant an order changing the minor’s name from SW to SN.
 - v. An Adoption Certificate be issued in respect of SN.
 - vi. This Honourable Court do issue such other orders as may deem necessary in the best interests of the infant herein.
 - vii. The costs of this Adoption process and proceedings, be costs in the cause.



2. The Applicants are Kenyan Citizens by birth residing in Nairobi County. They are legally married under Civil Marriage in 2024. Both the Applicants were previously married and they separated with their spouses. However, the 1st Applicant relationship with the minor's biological father (AMG) whereabouts is unknown. Subsequently, the 1st Applicant together with minor moved in with the 2nd Applicant. The 2nd Applicant has integrated well with the minor into his new family and he is desirous of taking care of all minor's affairs as well as having a present father who is legally recognized. They have been blessed with one biological child together by name WM aged seven years old.
3. The minor has been under the care of 1st Applicant until eight years back when 2nd Applicant came into the 1st Applicant life and took up the role of a father. have had custody for the last five years. The child is 14 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.
4. SW (Minor) is presumed to have been born on 2nd October, 2010 to the 1st Applicant. The minor's father separated with the 2nd Applicant. It is for that reasons that made the 1st Applicant to move on with her life and in the process she met the 2nd Applicant and they settled down. However, the Minor's father has never been in the child's life and his whereabouts remains unknown to the Applicants.
5. Later, the Applicants felt the desire of legalizing the relationship between them and the child herein so that she grows up in a normal stable family and continue raising her thus prompting them to approach KKPI Adoption Society. They were given explanatory memorandum to which the 1st Applicant consent was obtained as well as 2nd Applicant's consent so that they can have full parental responsibility over the 1st Applicant's biological daughter. They got approval from the society through the Case Committee sitting and the child was declared free for adoption on 31st July, 2024 Vide Freeing Certificate Serial Number 6X3.
6. 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. Harriet Kihara, Principal Children's Officer filed a report dated 9th June 2025, during her visit, she observed a child who has bonded well with the Applicants. They are socially and economically able to take care of the child. They are physically and mentally stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers. Having met all the legal requirements for Kinship adoption as stipulated in the *Children Act* 2022, Ms. Kihara recommends the adoption process.
7. A report dated 30th March, 2025 from Guardian Ad Litem, HOO states that during his visit, he observed that the child is well taken care of by the Applicants, the minor is growing in a favourable environment and is at peace thus highly recommending the Applicants to adopt the child.
8. KWM (2nd Applicant's mum) and FMK (Friend to 2nd Applicant) proposed Legal Guardians testified in Court that they consented to be the legal guardians for the minor. They also affirmed that they understand the legal implications hence they 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 she understands she is in court for adoption process where she 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 father’s 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, JPWK and MM are hereby allowed to adopt SW (Minor).
 - b. Henceforth be called SNM
 - c. Her date of birth shall be 2nd October, 2010.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. KWM and FMK are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register
 - g. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - h. The guardian ad litem is hereby discharged.
- It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 10TH DAY OF JULY, 2025.



P. M. NYAUNDI

JUDGE

In the presence of:

No appearance by Parties

Fardosa Court Assistant

