



**In re Baby FK (The Child) (Adoption Cause E282 of 2024)
[2025] KEHC 9867 (KLR) (Family) (4 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9867 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E282 OF 2024
PM NYAUNDI, J
JULY 4, 2025
IN THE MATTER OF ADOPTION OF BABY FK (THE CHILD)**

IN THE MATTER OF

**CNN 1ST APPLICANT
JNM 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 5th December, 2024 the Applicants herein seek the following orders, that:-
 - i. They be allowed to adopt the child FK and the child be henceforth called FKN.
 - ii. The Registrar-General do make the appropriate entries in the Adopted Children’s Register in respect of the minor and further the Registrar of Births and Deaths do issue a Birth Certificate in respect thereof.
 - iii. The guardian ad litem M/S. PKS be discharged and DMN & SBN be appointed as the legal guardians of the minor herein in the event that the applicants herein are in any way incapacitated or in any way unable to discharge their parental obligations.
 - iv. The Court does issue such other orders as may be necessary for the best interest of the child.
2. This is a joint adoption. The Applicants are Kenyan Citizens by birth residing in Kisii County. They are legally married and they have been living together. The Applicants are farmers having retired from gainful employment. The minor is child to the Applicants’ daughter hence a granddaughter. They have sufficient family income to enable them take good care of the child. They have other three (3) living children.



3. They have had custody since year 2022. 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.
4. Baby FK (minor herein) is presumed to have been born on 22nd September, 2009 at Kisii County to the late MMN (Applicants daughter) who died in Dubai on 14th May, 2022 as per the annexed copy of death certificate. However, the Minor's father has never been in the child's life and his whereabouts remains unknown to the Applicants. Consequently, after the demise of the child's mother, the child was left under the care of the Applicants.
5. Further the Applicants felt the urge 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 they consented as well as the child's consent was obtained. KKPI Adoption Society Kenya, declared the child free for adoption on 28th August, 2024 vide Certificate Serial Number 0905.
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. Winfred Ikinya, the Assistant Director Children Services submitted a favourable report dated 3rd June 2025, in which she observed a child who has bonded well with the Applicants as well as their other relatives. She noted that the child has been living with the Applicant's son DN since the Applicants are away in United States. She further noted that the child is healthy, well fed and clothed. The minor is a form two student at [Particulars Withheld] High School. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers. They are financially stable and are mentally stable. Having met all the legal requirements for Kinship adoption as stipulated in the [Children Act](#) 2022, Ms. Ikinya recommends the adoption process.
7. A report dated 3rd June 2025 from Guardian Ad Litem, PSK in which during her video call, she observed that the child is of good health, well groomed, jovial and identifies the Applicants as his parents. She further averred that the Applicants are willing to unconditionally adopt the child as their own therefore, recommending the Applicants to adopt the child since it is in the child's best interests.
8. DN and SBN proposed Legal Guardians testified in Court that they are husband and wife residing in Kisii having been blessed with one issue. They are son and daughter in law to the Applicants. Consequently, they consented to be the legal guardians for the minor. They also reiterated 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 the 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, CNN and JNM are hereby allowed to adopt BABY FK (hereinafter the child).
 - b. Henceforth be called FKN.
 - c. Her date of birth shall be 22nd Septemer, 2009 at Kisii Central, Mwamosioma Location in Kisii County.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. DN and SBN 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 to issue appropriate 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 4TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:



No Appearance by Parties
Fardosa Court Assistant

