



REPUBLIC OF KENYA



**In re HPM (Minor) (Adoption Cause E130 of 2024)
[2025] KEHC 9836 (KLR) (Family) (4 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9836 (KLR)

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

ADOPTION CAUSE E130 OF 2024

PM NYAUNDI, J

JULY 4, 2025

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF HPM (MINOR)

IN THE MATTER OF

WMM 1ST APPLICANT

MNW 2ND APPLICANT

JUDGMENT

1. Vide Amended Originating Summons, dated 20th September, 2024 the Applicants herein seek the following orders, that:-
 - i. Spent
 - ii. Spent
 - iii. The 1st Applicant be authorized to adopt HPM (Minor).
2. The Applicants are Kenyan Citizens by birth residing in Embakasi, Machakos County. They are legally married under Kamba Customary Laws as evidenced by a copy of marriage certificate serial number 001XX85. Both Applicants had previous relationships which did not culminate into marriage.
3. The 2nd Applicant had a relationship with the minor's biological father (SIM) and out of that relationship they were blessed with two children; the minor herein and DDW in Adoption Cause E126 of 2024. The relationship did not culminate into marriage that made them separate and the whereabouts of minor's father is unknown. Subsequently, the 1st Applicant stated that he has integrated well with the minor into his new family and he is desirous of taking care of all minor's affairs including adding him as a dependent on his medical insurance scheme as well as appearing and representing him as his parent in any occasion or even. They have sufficient family income to enable them take good care of the child. The Couple has other children born in the course of their marriage.



4. They 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.
5. HPM (Minor) is presumed to have been born on 8th December, 2008 to the 2nd Applicant. The minor's father separated with the 2nd Applicant. It is for that reasons that made the 2nd Applicant to move on with her life and in the process, she met the 1st Applicant and they settled down. However, the Minor's father has never been in the child's life and his whereabouts remain unknown to the Applicants.
6. Further, 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 KCH 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 2nd Applicant's biological son. KCH Adoption Society, declared the child free for adoption on 15th May, 2024 Vide Freeing Certificate Serial Number 975.
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. Ezekiel Kimani, the Assistant Director Children Services submitted a report dated 26th August 2024, during his visit, he observed a child who has bonded well with the 1st Applicant. He stated that the Applicants are financially secure to take good care of the child. They are socially 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, Mr. Kimani recommends the adoption process.
8. A report dated 28th May, 2025 from Guardian *ad litem*, AKM in which during his visit, he observed that the child is well taken care of by the Applicants, he is clean, well fed and well clothed. The Applicants are very close and they communicate so well thus highly recommending the Applicants to adopt the child.
9. JNM and FMT proposed Legal Guardians testified in Court that they are husband and wife residing in Embakasi.

JNM is the brother to the 1st Applicant. They having been blessed with two children. Consequently, they consented to be the legal guardians for the minor. They also affirmed that they understand the legal implications and are prepared to assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.
10. The Court interviewed the minor and it was observed that he understood the proceedings before Court and consented to the adoption

Determination

11. 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.
12. 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.
13. 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.”
14. 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, WMM and MNW are hereby allowed to adopt HPM (Minor).
 - b. Henceforth be called HPMM
 - c. His date of birth shall be 8th December, 2008 in Nairobi County.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. JNM and FMT are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue the child with the requisite certificate.
 - 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 4TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE



In the presence of:
Fardosa Court Assistant

