



**In re MM aka MM (Baby) (Adoption Cause E121 of 2025)
[2025] KEHC 13105 (KLR) (Family) (19 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13105 (KLR)

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

ADOPTION CAUSE E121 OF 2025

PM NYAUNDI, J

SEPTEMBER 19, 2025

N THE MATTER OF BABY MM AKA MM

IN THE MATTER OF

SMM 1ST APPLICANT

CWM 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 5th May, 2025 the Applicants herein seek the following orders, that:-
 - i. They be authorized to adopt Abandoned Baby MM aka MM a minor who is to be known as DMM and the Registrar general be directed to enter this adoption into the register of Adoptions.
 - ii. HWW be appointed as the legal guardian of the minor who shall be presumed to have been born in Kenya.
2. This is a joint Application. The 1st Applicant holds dual citizenship from Kenya and USA while the 2nd Applicant is Kenyan Citizen. They reside in Nairobi County. They solemnized their marriage on 12th January, 2012 as per the annexed marriage certificate serial number 661107. They are in gainful employment as both are in business. They have sufficient family income, finances and assets to enable them take good care of the child. They have the desire to expand their family as well as to offer the child a loving and care home.
3. They have had custody since 3rd March, 2024. The minor is 4 years old. They do not have other children. 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 MM aka MM minor herein presumed to have been born on 29th July, 2019. He was found abandoned by a good Samaritan on 21st August, 2020 at Country Bus Station. The matter was reported at Kamukunji Police Station Vide OB Number xx/21/08/2020. Thereafter, the child was temporarily placed to Mogra Children’s Home for care and protection pending investigations of the child’s parents.
5. Later, the child was formally committed at the same facility pursuant to Court order issued by the Resident Magistrate Children’s Court at Nairobi on 6th August 2021, vide Protection and Care File Number 354 of 2021. That police issued a final letter dated 14th April, 2022 stating that the efforts to trace the child’s relatives bore no fruit.
6. The Applicants approached the KKPI Adoption Society, they were taken through an Explanatory Memorandum they signed Certificate of Acknowledgment. Subsequently, KKPI Adoption Society, through their committee sitting confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child’s best interest therefore declared the child free for adoption vide freeing certificate Serial Number xxxx and placed with the Applicants on 3rd March, 2024.
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. Harriet Kihara, Principal Children’s Officer filed a report dated 15th July 2025, through her visit she noted a strong bond have developed between the child. They are socially, mentally and financially stable.

The Applicants have met all legal requirements for local adoption as stipulated in the *Children Act* 2022. The Applicants are clear of any criminal claim as evidenced police clearance certificates number PCC-PPTODR26 and PCC-OLTLR707 respectively. The Officer recommended the adoption process.
8. PNK, Guardian Ad Litem, presented report dated 9th July, 2025 in which during her home visit, she observed that the home is stable, secure and filled with warmth providing a nurturing environment for the child continued growth and development. Additionally, the Applicants are capable, loving, and well prepared to raise the child hence highly recommending Applicants to adopt the child since it is in the child’s best interests.
9. Proposed Legal Guardian (HWW) testified in Court that the 2nd Applicant is her sister while the 1st Applicant is her brother – in-law. She lives in Washington State, she is a registered nurse, she has one child aged 18 months. Subsequently, she consented to the adoption proceedings. Further, she understands the legal implications and she will 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 there was a strong bond between the minor and the Applicants.

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 Local Adoption from the Reports filed. It is evident that the Applicant has 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. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. 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. They have sufficient family income, finances and assets to enable them take good care of the child. They desire to expand their family as well as to offer the child a loving and care home cannot be disregarded as they have adopted another child in Adoption Cause No. E 122 of 2025.
14. 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.”
15. This Court is therefore allow the application and orders as follows that;
- a. The Applicants, SMM and CWM are hereby allowed to adopt Abandoned Baby MM AKA MM.
 - b. Henceforth, the child shall be known as DMM.
 - c. He is presumed to be a Citizen of Kenya by birth.
 - d. His date of birth shall be 19th November, 2020.
 - e. HWW is hereby appointed as Legal Guardian 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 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 19TH DAY OF SEPTEMBER, 2025.

M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Ambaka for Applicants

