



**In re Baby ST (Adoption Cause E016 of 2022)  
[2023] KEHC 23266 (KLR) (Family) (22 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 23266 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E016 OF 2022  
PM NYAUNDI, J  
SEPTEMBER 22, 2023  
IN THE MATTER OF THE CHILDREN’S ACT NO. 8 OF 2001  
IN THE MATTER OF ADOPTION OF BABY ST  
AND IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**IN THE MATTER OF**

**GLB ..... APPLICANT**

**JUDGMENT**

1. The Applicant, GLB vide Originating Summons dated December 15, 2021 has made an application for the adoption of Baby ST the child herein. The applicant is not married but is currently in a serious relationship with HW. He does not have children of his own and is driven by the desire to love for children.
2. The matter proceeded for hearing via *viva voce* evidence on the Teams virtual platform on the 27th of July 2023.
3. The Applicant is Kenyan Citizen and of the Christian faith. He avers that he has the financial means and capability to take care of the Child. The applicant runs his own outside catering and events management business, [particulars Withheld] Organisers. He has had custody of the child since July 17, 2015. He resides in [particulars withheld], Nairobi County. She fully understands the consequences of an adoption order.
4. The child was found abandoned on July 31, 2014 at a roadside wrapped in a paper bag in Lang’ata. A Good Samaritan rescued the child and took him to Lang’ata Police Station where the matter was booked vide OB number 16/31/07/2014. He was then taken to the Medicins Sans Frontiers Clinic at Kibera South Health Centre for Treatment from where he was referred to Kenyatta National Hospital



where he was treated for neonatal sepsis, neonatal jaundice, and seroexposure until he was discharged on 21 August 2014.

5. The child was admitted into New Life Home Trust via placement letter from the Children Officer Mlimani Law Courts dated August 15, 2014. The Sub County Children's Office in Westlands wrote to the Nairobi Children's Court on September 22, 2014 requesting that the child be committed into the care of New Life Home Trust for protection and care. On October 6, 2014 the Children's Court at Nairobi committed the child to New Life Home Trust for a period of three years vide protection and care case number 511 of 2014. The child remained at the said home until he was placed with the applicant on July 17, 2015.
6. The police further furnished a final letter on March 19, 2015 stating that efforts to trace the child's family had been unsuccessful and no one had presented himself or herself to claim the child.
7. Prior to the hearing of the adoption application, KKPI Adoption Society prepared and filed a report dated March 25, 2015 and issued a certificate serial No xxx declaring the child free for adoption. On March 12, 2018, the Court appointed Guardian ad litem FI.
8. FI the Guardian ad litem was present in court, she confirmed to the court that she had visited the applicant's home. The child was well taken care of and the applicant bonded well with the child. She recommends the adoption.
9. An officer of the Department of Children Services, Nyaranga Odundo prepared a report dated February 1, 2023. The report was countersigned by Nancy Waswa. The report established that the child was abandoned on July 31, 2014 at a roadside wrapped in a paper bag in Lang'ata. A Good Samaritan rescued the child and took him to Lang'ata Police Station where the matter was booked vide OB number 16/31/07/2014. He was then taken to the Medicins Sans Frontiers Clinic at Kibera South Health Centre for Treatment from where he was referred to Kenyatta National Hospital where he was treated for neonatal sepsis, neonatal jaundice, and seroexposure until he was discharged on 21 August 2014.
10. The report further documents that the child was admitted into New Life Home Trust via placement letter from the Children Officer Milimani Law Courts dated August 15, 2014. The Sub County Children's Office in Westlands wrote to the Nairobi Children's Court on September 22, 2014 requesting that the child be committed into the care of New Life Home Trust for protection and care. On October 6, 2014 the Children's Court at Nairobi committed the child to New Life Home Trust for a period of three years vide protection and care case number 511 of 2014. The child remained at the said home until he was placed with the applicant on July 17, 2015.
11. The proposed Legal Guardians RO And LCAO attended court and confirmed they are willing to take up the role of legal guardians. They are the applicant's friends.

After carefully assessing the records herein, I am satisfied that the applicant has 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. The Applicant is 47 years.

Article 53 of the *Constitution of Kenya, 2010* provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

"A Child's Best interests are of paramount importance in every matter concerning the child."

13. This principle is restated Under Section 8 of the *Children Act, 2022* which provides

"Best interests of the child.

In all actions concerning children, whether undertaken.

- (1) By public or private social welfare institutions, courts of the law, administrative authorities, or legislative bodies-
  - (a) The best interests of the child shall be the primary consideration;
  - (b) The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.

14. Section 194 (1) (c) of the Act also requires that if the adoption order is made

"The order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;"

15. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the Applicants.

16. Accordingly, I allow the prayers sought in the Originating Summons dated December 15, 2021 and order as follows:

- I. The Applicant GLB be allowed to adopt Baby ST
- II. The Child is to be known as STL.
- III. The Child be presumed to be a Kenyan citizen by birth
- IV. RO and LCAO are hereby appointed as legal guardians of Child.
- V. The Registrar be and is hereby directed to enter this adoption into the Register of Adopted Children.
- VI. The Director Immigration is authorized to issue the child with a Kenyan passport.
- VII. The Guardian Ad litem is discharged.



**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 22ND DAY OF SEPTEMBER,  
2023.**

**P M NYAUNDI**

**HIGH COURT JUDGE**

**In the presence of;**

Sylvia Court Assistance

