



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re HOO (Minor) (Adoption Cause E029 of 2025)
[2025] KEHC 13349 (KLR) (Family) (26 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13349 (KLR)

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

FAMILY

ADOPTION CAUSE E029 OF 2025

PM NYAUNDI, J

SEPTEMBER 26, 2025

**IN THE MATTER OF CHILDREN'S ACT, 2022 IN
THE MATTER OF ADOPTION OF HOO(MINOR)**

JUDGMENT

1. *Vide* Originating Summons, dated 25th February, 2025 the Applicants herein seek the following orders, That:-
 - i. Spent
 - ii. Spent
 - iii. The minor be presumed to be Kenyan Citizens by birth and be accorded all rights of immigration that accrue to Kenyan Citizens.
 - iv. The Applicant SNO be authorized to legally adopt the minor currently known as HOO.
 - v. PAA and POO be appointed as Legal Guardians of the minor herein.
 - vi. The Registrar General be directed to enter the adoption in the Adopted Children's Register.
2. Pursuant to order of 24th July 2025, the Applicants were granted leave to amend prayer (v) of the Originating Summons and nominate BAO and GOO as Legal Guardians to the minor.
3. The Applicant is a Kenyan Citizen by birth, residing in Pennsylvania State in USA and working there as a Caregiver. She was married to her late husband and there were blessed with two biological children who have consented to these adoption proceedings. She has sufficient family income to enable her take good care of the child. She is an Aunt to the minor herein as the father of the minor is the Applicant's elder brother hence kinship adoption. The child has been living with the Applicant and it's her desire to have the child so that she can be included as an integral part of her family and continue to provide for her with love comfort and family. The child is 11 years old. She understands the legal implications



of the adoption order, she is aware that the child will have full rights as would a biological child and the order is not reversible.

4. HOO (Minor) is presumed to have been born on 26th August, 2014 as per Birth Certificate Serial No. XXXXXXXX to MOO (Applicant's brother) and MOO (Applicant's Sister in law). The minor is in grade 6. The minor's parents are small scale farmers, they have four other children making it difficult for them to meet the minor's needs and this culminated the minor to be placed with the Applicants. The Applicant having supporting the minor felt that she can do it better if living with her thus prompted her to approach the KKPI Adoption Services for her to legalize the relationship Later, on 11th April 2025, oral interview was conducted to the minor's parents, she was given explanatory memorandum to which their consent together with minor's consent were obtained so that she can have full parental responsibility over the minor. Subsequently, the Society's Case Committee sitting declared the minor free for adoption on 30th October, 2024 *Vide* Freeing Certificate Serial Number 0914.
5. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child as most the family members have been involved in making the decision which according to them will benefit the child. The Assistant Director Children Services, Ms. Mary Atati, submitted a favourable report dated 25th April, 2025 during her visit to Kisumu, she observed that the Applicant has provided a good environment for the minor, the minor is being adopted by her Aunt, the Applicant is financially secure to take good care of the child, she is socially and mentally stable. The Applicant is clear of any criminal claim as evidenced by police clearance certificate numbers PCC-B5TZVM95. Having met all the legal requirements for Kinship adoption as stipulated in the *Children Act* 2022, Ms. Atati recommends the adoption process.
6. A report submitted on 14th May, from Guardian Ad Litem, RW submitted a favourable report in which during her visit, he observed that there is a strong bond between the child and the minor, the child is well taken care of by the Applicant, the Applicant is emotional, psychological and physical stable to raise the minor in a nurturing environment. He averred that the Applicant having background in counselling psychology, it will give her an added advantage in addressing the emotional complexities of adoption and child development. He further averred that the Applicant's extended family offers robust emotional and social safety by ensuring the minor will not lack love, mentorship, or cultural grounding thus highly recommending the Applicants to adopt the child as it will be in the best interest of the child.
7. Proposed Legal Guardians BAO And GOO testified in Court that they are married couple living in Kisumu County. They further stated that the Applicant is their niece. 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 Applicant is unable to discharge her responsibilities.
8. The Court interviewed the minor's parents and it was observed that they understand they were in court for adoption process where they consented to the adoption proceedings.

Determination

9. 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.
10. 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 & Banjul Charter all amplify on the best interests of the child.
11. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicant has 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 Applicant is qualified and able to take care of the child. The minors' biological parent'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.”
12. 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 Applicant, SNO is hereby allowed to adopt HOO (Minor).
 - b. Henceforth be called HOO.
 - c. Her date of birth shall be 26TH August, 2014.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. BAO And GOO 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 birth 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 26TH DAY OF SEPTEMBER, 2025.



P. M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Mayieka for Applicant

