



**In re Adoption of Baby BW (Adoption Cause E293 of 2024)
[2025] KEHC 15446 (KLR) (Family) (30 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15446 (KLR)

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

FAMILY

ADOPTION CAUSE E293 OF 2024

CJ KENDAGOR, J

OCTOBER 30, 2025

IN THE MATTER OF ADOPTION OF BABY BW

IN THE MATTER OF

PMN 1ST APPLICANT

LNM 2ND APPLICANT

JUDGMENT

1. Before this Court is an Amended Originating Summons dated 18th September, 2025. The Applicants PMN and LNM are seeking to be authorized to adopt Baby BW, hereinafter referred to as (“the Child”), and upon adoption, the Child is to be known as MBM. The Applicants have proposed that HMR and CGM be appointed as the Child’s legal guardians upon the granting of the adoption orders.
2. The Applicants are a married couple, as evidenced by a copy of their marriage certificate and Kenyan citizens, as evidenced by copies of their Kenyan National Identity cards. They have one biological Child of their own, one ENM, a boy aged fourteen (14) years old. The 1st Applicant works as a lab technician, while the 2nd applicant is a nurse; therefore, their financial ability and capacity to support the Child are demonstrated by their financial statements, and they own assets in their names. Their health is good, as shown by their medical reports, and they have no prior criminal records, evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have expressed that their desire to adopt is motivated by a wish to expand their family and to give their son a sister. The Child has been in their custody since 5th January, 2024. They also have positive recommendations from their parish priest and friends.
3. HMR and CGM, who are the proposed Legal guardians, told the Court that they are aware of the proceedings on the adoption and that they have consented wilfully to be the legal guardians, a role that they understand.



4. The Child was present during the online hearing and displayed a sense of happiness and good health.
5. The report from the Ministry of Gender, Culture, and Children’s Services, State Department for Children’s Services, Directorate of Children’s Services (Nairobi County), dated 9th September, 2025, states that the Child is 3 years old, presumed to have been born on 4th May, 2022. She is presumed to be a Kenyan Citizen by birth and was found abandoned on 24th September, 2022 at Mukinduri when the mother requested a 9-year-old to carry the Baby for her before disappearing. The minor, SW, unsure of what to do, took the Child home to her mother, GW, who cared for the Child until 26th September, 2022, when she reported the matter to Kerugoya Police Station. Efforts to locate any relatives of the Child proved unsuccessful, and no one has come forward to claim the Child since. The Child was declared free for adoption on 18th October, 2023 by Kenya Homes Adoption Society, with the freeing certificate number 924.
6. In light of the best interests of the Child principle provided for under Article 53 (2) of the Constitution of Kenya, 2010. Sections 8 (1), (2) and (3) of the Children’s Act No. 29 of 2022 and the 1st Schedule of the Children’s Act No. 29 of 2022, this Court has an obligation to prioritize the Child’s best interests in making decisions touching on him.
 - a. Article 53 of the Constitution, 2010 states that a Child’s best interests are of paramount importance in every matter concerning the Child.
 - b. Sections 8 (1), (2) and (3) of the Children’s Act No. 29 of 2022 provides as follows;
 1. In all actions concerning Children, whether undertaken by public or private social welfare institutions, courts of 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.
 2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the Child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to: -
 - a. safeguard and promote the rights and welfare of the Child;
 - b. conserve and promote the welfare of the Child; and
 - c. secure for the Child such guidance and correction as is necessary for the welfare of the Child, and in public interest.
 3. In any matters affecting a Child, the Child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the Child’s age and degree of maturity.
 - c. The First Schedule as provided for under Section 8 (1) of the Children’s Act No. 29 of 2022 provides best interests considerations to be as follows:
 1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the Child.
 2. Distinct special needs (if any) arising from chronic ailment or disability.



3. The relationship of the Child with the Child's parent(s) and/or guardian(s) and any other persons who may significantly affect the Child's welfare.
 4. The preference of the Child, if old enough to express a meaningful preference.
 5. The duration and adequacy of the Child's current living arrangements and the desirability of maintaining continuity.
 6. The stability of any proposed living arrangements for the Child.
 7. The motivation of the parties involved and their capacities to give the Child love, affection and guidance.
 8. The Child's adjustment to the Child's present home, school and community.
 9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the Child and the other parent and/or guardian(s), including physical access.
 10. The capacity of each parent and/or guardian(s) to cooperate or to learn to cooperate in Child care.
 11. Methods for assisting parental and/or guardian cooperation and resolving disputes and each parent's/guardian's willingness to use those methods.
 12. The effect of the Child if one parent/guardian has sole authority over the Child's upbringing.
 13. The existence of domestic abuse between the parents/guardian(s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the Child.
 14. The existence of any history of Child abuse by a parent and/or guardian (s); or anyone residing in the same dwelling as the Child.
 15. Where the Child is under one year of age, whether the Child is being breast- fed.
 16. The existence of a parent(s) or guardian(s) conviction for a sex offense or a sexually violent offense under the *Sexual Offences Act*.
 17. Where there is a person residing with a parent or guardian, whether that person; -
 - a. Has been convicted of a crime under this Act, the *Sexual Offences Act*, the Penal Code or any other legislation.
 - b. Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.
 18. Any other factor which may have a direct or indirect effect on the physical and psychological well-being of the Child.
7. The report from the Ministry of Gender, Culture and Children's Services, State Department for Children's Services Directorate of Children's Services (Nairobi County), the report from Kenya Homes Adoption Society, the guardian ad litem and the proposed legal guardians indicate that the



Child is well known to the adoptive parents and that she will be well taken care of in their care and custody.

8. I am satisfied that the Applicants have a genuine desire to adopt the Child. They are suitable as adoptive parents.
9. I find that this adoption gives the Child a chance at a better life and education in a loving and stable home with the adoptive parents. I do not doubt that the Child has bonded with the Applicants.
10. Based on the foregoing, I am satisfied that this adoption serves the Child's best interests. As such, I do allow this application and make the following orders:
 - a. The Applicants PMN and LNM are hereby authorized to adopt Baby BW.
 - b. Upon adoption, the Child shall be known as MBM.
 - c. HMR and CGM are hereby appointed as the legal guardians of the Child.
 - d. The Registrar General is hereby directed to enter this adoption into the Adopted Children Register.
 - e. The Child is presumed to be a Kenyan citizen by birth.
 - f. The Director of Immigration is hereby authorized to issue the Child with a Kenyan passport.
 - g. The guardian ad litem is hereby discharged.
11. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 30TH DAY OF OCTOBER, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Advocate: Mr. Kamenchu

