



REPUBLIC OF KENYA



**In re Adoption and Custody of Baby L (Adoption Cause E006 of 2025)
[2025] KEHC 14922 (KLR) (23 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14922 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
ADOPTION CAUSE E006 OF 2025
RN NYAKUNDI, J
OCTOBER 23, 2025
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY MJC
AND
FOR ADOPTION AND CUSTODY OF BABY L
UNDER PART XIV AND SECTION 183(1) (2), 185 (4) (B) AND 188
OF THE CHILDREN ACT ARTICLE 14(4) OF THE CONSTITUTION
OF KENYA AND SECTION 3(A) OF THE CIVIL PROCEDURE**

JUDGMENT

1. Before this Court is Originating Summons dated 9th June 2025 in which the Applicant is seeking following orders:
 - a. That MJC of Kenya National Identity card number 1268xxxx, who is a Kenyan citizen, be authorized to adopt the child baby LA estimated to have been born on 8th January 2023.
 - b. That the director of Children services Uasin Gishu county is hereby ordered to visit the home of the applicant and present a children's report to this court
 - c. That upon adoption, the child be known as GJ and be declared to be a Kenyan citizen entitled to all the rights and benefits under *the constitution* of Kenya and all applicable laws
 - d. That AJC and TKT years be appointed as legal guardians' ad litem of baby L pending and determination of this application
 - e. That the Register General is directed to enter this adoption into the register of adoptions and subsequent birth certificates to be issued by the Registrar of Birth and Deaths
2. The application is anchored on various grounds and affidavit sworn by MJC. The grounds are enumerated as hereunder:
 - a. That the applicant is desirous of adopting baby L who was an abandoned baby



- b. That baby L was rescued by cattle herders having been abandoned in a thicket near the Kakamega Airstrip on 8th January 2023. The cattle herders handed her over to the village elder, LA of Amalemba, Kakamega, who cared for the child for two days
 - c. That baby L was taken to Kakamega police station by the village elder, and was issued occurrence book entry no. 39/10/01/2023
 - d. That baby L was admitted on 10th January 2023 to Springs of Life children's home pending committal
 - e. That the Magistrates' court, having been satisfied that baby L was in need of care and protection, vide and order dated 27th March 2023 committed the child into the legal Springs of Life children's home
 - f. That the committal was granted by the Chief Magistrate's Court at Kakamega vide Protection and Care case number E19/2023 for a period of three (3) months
 - g. That the Case Committee of Little Angels Network was satisfied that baby Lis available for adoption in a meeting on 10th November 2023
 - h. That a certificate no. 002421 was issued to declare baby L free for adoption
 - i. That the Applicants approached the little Angels Network on 26th July 2022 as a prospective Adoptive Parent.
 - j. That the Little Angels Network Case Committee sitting on 31st January 2023 considered the applicant herein had meet all the legal and social parameters for adoption.
 - k. That the Applicant herein has undergone the post-application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports and a police clearance certificate.
 - l. That the Applicant is able and willing to give baby L a stable loving home environment.
3. In support of the summons is the annexed supporting affidavit of MJC in which she deponed as follows:
- a. That I am desirous of adopting baby L who was an abandoned baby.
 - b. That baby L was rescued by cattle herders having been abandoned in a sweet potato plantation on 22nd March 2020.
 - c. That Baby L was taken to Kakamega Police station by the Village elder, LA of Amalemba, Kakamega and was issued Occurrence book entry No. 39/10/01/2023.
 - d. That baby L was admitted on 10th January 2023 to Springs of Life Children's Home pending committal.



- e. That the Magistrates' Court, having been satisfied that baby L was in need of care and protection, vide and order dated 27th March 2023 committed the child into the legal custody of Springs of Life Children's Home.
- f. That the Little Angels Network, a registered adoption agency, issued Certificate Serial Number 002xxx together with a Report declaring Baby L free for adoption.
- g. That I approached the Little Angels Network on 26th July 2022 as a prospective Adoptive Parent.
- h. That the Little Angels Network Case Committee sitting on 31st January 2023 to consider my Application and evaluate if I had met all the legal and social parameters for adoption.
 - i. That I have undergone the post-application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports, and a police clearance certificate.
- j. That I have undergone a medical check-up, and I have also been recommended by two referees in accordance with the adoption procedures. (Annexed and marked "MJC 8" respectively are copies of our medical reports and referee information sheets by PJB and NH O).
- k. That I have nominated AJC and TKT to be appointed as legal guardians' ad litem of baby L.
- l. That I am able and willing to give baby L. a stable loving home environment if granted the adoption order which I hereby humbly request.

Analysis and Determination

- 4. The adoption proceedings are governed by the Children's Act 2022 which provides inter alia in section 2 that: "adoption" means the process through which a child is permanently placed with a legal parent or parents in accordance with Part XIV; "adoption order" means an adoption order made under section 183 vesting the parental rights and responsibilities relating to a child in the adopter; "adopter" means a person in whose favour an adoption order is made.
- 5. Part XIV of the [Children Act](#) 2022 provides for Adoption. Specifically, section 183 of the [Children Act](#) 2022 provides as follows;
 - 183. Power to make adoption orders
 - (1) Subject to this Act, the High Court may, on an application made in the prescribed form, make an order, in this Act referred to as "adoption order", authorising an applicant to adopt a child.
 - (2) All proceedings under this Part shall be heard and determined in chambers, and the identity of the child and the applicants shall be kept confidential.
 - (3) In this Act, adoption means local, kinship and foreign adoption.
 - (4) For the purposes of this Part—



- (a) “kinship adoption” has the meaning assigned to it in section 2;
- (b) “local adoption” means an adoption in relation to which—
 - (i) the child is resident in Kenya; and
 - (ii) the adopting parent or parents are Kenyan nationals’ resident in Kenya; and
- (c) “foreign adoption” means an adoption in relation to which —
 - (i) the adopting parent or parents are Kenyan nationals with dual citizenship;
 - (ii) the adopting parent or parents are foreign nationals whether or not resident in Kenya;
 - (iii) the adopting parent or parents are not Kenyan nationals but are biologically related to the child; or
 - (iv) the adopting parent or parents were once Kenyan nationals but have lost their nationality by operation of the law of the host country to which the prospective parent or parents have a nationality

6. Moreover, section 185 of the *Children Act* 2022 provides for children who may be adopted and states as follows;

- (1) Any child who is resident within Kenya may be adopted whether or not the child is a Kenyan citizen, or was born in Kenya.
- (2) Without prejudice to the generality of subsection (1), no Court may entertain an application for an adoption order in respect of a child unless—
 - (a) the child concerned has been in the continuous care and control of the applicant within Kenya for a period of three consecutive months preceding the filing of the application; and
 - (b) the application for an adoption order is supported by a report made by a duly registered adoption society recommending that an adoption order be made.
- (3) The report referred to in subsection (2)(b) shall contain the society’s findings and recommendations in respect of the child and the applicant or applicants, as the case may be.
- (4) The following children shall be eligible for adoption—
 - (a) a child who is an orphan and has no guardian or caregiver able and willing to take care of the child;
 - (b) a child who has been abandoned or whose parents’ or guardian’s whereabouts cannot be traced within a period of one year;



- (c) children who are willingly offered for adoption by their biological parents in accordance with regulations made under this Part.

7. The purpose of adoption orders under the Children’s Act 2022 is an entrenchment of Article 53 of *the constitution* which provides as follows:

- (1) Every child has the right-
 - (a) to a name and nationality from birth;
 - (b) to free and compulsory basic education;
 - (c) to basic nutrition, shelter and health care;
 - (d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;
 - (e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not; and
 - (f) not to be detained, except as a measure of last resort, and when detained, to be held-
 - (i) for the shortest appropriate period of time; and
 - (ii) separate from adults and in conditions that takes account of the child’s sex and age
- (2) a child’s best interests are of paramount importance in every matter concerning the child.

8. What is the rationale of the law on adoption orders? The adoption orders erase the rights and obligations of the biological parents and substitutes new parents for the biological ones. This is the dictum of the court in *O’Connor v A and B* [1971] 1WLR 1227 at pages 1235-1236. Thus:

The upbringing of its members until they are in a position to assume independent membership must be the concern of any society. Nevertheless, for a number of reasons, societies generally delegate the main responsibility for the upbringing of their infant members to the natural parents. Hence arises a reciprocal primary right in the natural parents to bring up their own child. The right of the child to be decently brought up to adult membership of the society needs no analysis or expatiation. But there will be some natural parents who do not wish to enjoy the rights, with their concomitant obligations, of bringing up their natural child — indeed, wish to surrender such rights and obligations. On the other hand, there will be people who, for various reasons, will wish to enjoy such rights and assume such obligations in respect of a child who is not their natural child. Adoption is the procedure whereby the two classes of adults — those who wish to surrender their rights and obligations in respect of a child and those who wish to assume them — are brought together, so that the latter are legally substituted for the former in relation to the child in question. The legal metamorphosis finds its quintessential expression in section 13 (1) of the Adoption Act 1958 whereby:



“Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents ... of the infant in relation to the future custody, maintenance and education of the infant, ... shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the infant were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid (and, in Scotland, in respect of the liability of a child to maintain his parents) the infant shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.”

The volunteers to perform a social duty primarily imposed on others who are unwilling themselves to perform such duty acquire thereby a right to be considered; and once they actually enter upon the performance of responsibilities towards the child acquire thereby a further right to be considered.

9. In the instance case, I have reviewed the affidavits by the applicants which sets out a suitability to adopt the minor Baby L which are also supported by the annexures on the surrounding environment suitable for the upbringing of the manner. In addition, the Director of Children Services in his report dated 8th September 2025 conducted an inquiry which ultimately made the following recommendations that the sole applicant meets the requirements for adoption under section 186 (1) (A) of the Children’s Act 2022. That the prospective adoptive mother is 55 years meaning she is above 25 years, 21 years above the prospective adoptive child and has not attained the age of 65 years thus meeting the provisions of section 186(2) (a) and (b) of the *Children Act* 2022.
10. That upon perusal of presented documents to the children officer, I confirmed that the sole applicant M J C has no criminal record and has been cleared by the Directorate of Criminal Investigations Certificates number PCC-7ATL5750 dated on 14th April 2022 as stipulated in the third schedule of the *Children Act* 2022. That the medical records reports dated 8th April 2022 by Dr. NH Omongo of Eldoret Hospital, MJC was declared to be of good medical healthy and of sound of mind. The doctor also observed her to be of mentally balanced emotionally secure. That the sole applicant has been approved to adopt the prospective adoptive child by the Little Angels Network Adoption Committee on 10th November 2023 and declared free for adoption on certificate No. 002421.
11. In all the considerations to support the welfare and the best interest of the child was underscored by the court in re McGrath (Infants) [1893] 1 Ch 143 in which the issues was addressed as follows:

“... The dominant matter for the consideration of the court is the welfare of the child. But the welfare of a child is not to be measured by money only, nor by physical comfort only. The word welfare must be taken in its widest sense. The moral and religious welfare of the child must be considered as well as its physical well-being. Nor can the ties of affection be disregarded.”
12. It is proper to state that the applicant has met the criteria under the Children’s Act 2022 and *the Constitution* to be granted an adoption order as an adoptive parent of the minor to take up responsibility and obligations as per law establish. For those reasons the following orders shall abide:
 - a. That MJC of ID No. 1268xxxx a citizen of Kenya be and is hereby authorized to adopt the child LA estimated to have been born on 8th January 2023.
 - b. That pursuant to this order Baby GJ be and is hereby declared a Kenyan citizen by birth entitled to all right and benefits under *the Constitution* of Kenya and all applicable laws.



- c. That by dint of this adoption order AJC and TKT are hereby appointed legal guardians' ad litem of Baby GJ.
- d. That the Director General of Births and Dates be and is hereby directed to enter the adoption order into the Register of Adoptions and move appropriately to issue birth certificate to Baby GJ.
- e. That for purposes of compliance, the Deputy Registrar of the High Court shall extract better particulars of the names of the applicants, the adopted minor and the guardians' ad litem to avoid any misdescription of the details in the Register of Births and Dates in the Ministry of Gender, Culture & Children Services, State Department for Children Services and Directorate of Children Services.
- f. It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 23RD DAY OF OCTOBER, 2025

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R. NYAKUNDI
JUDGE

