



**In re G alias GJ (Child) (Adoption Cause E012 of 2025)
[2025] KEHC 15100 (KLR) (15 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15100 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
ADOPTION CAUSE E012 OF 2025
G MUTAI, J
OCTOBER 15, 2025
IN THE MATTER OF THE ADOPTION OF BABY G ALIAS GJ (THE CHILD)**

IN THE MATTER OF

PC APPLICANT

JUDGMENT

1. The adoption application is dated 10th July 2025. Vide the petition filed by way of an Originating Summons, the applicant, PC, seeks the following orders:-
 1. That the applicant be authorized to adopt Baby G alias GJ, to be known as GGC;
 2. That NCR and LC be appointed as the legal guardians of the child in the event of the death or incapacity of the applicant before she is of full age and fully self-reliant;
 3. That the Registrar General be directed to enter in the Adopted Children Register an entry recording the adoption;
 4. That the child be presumed to be a Kenyan citizen by birth;
 5. That the Director of Immigration be authorized to issue the child with a Kenyan passport; and
 6. That the Court be pleased to make any further orders it may deem necessary.
2. The applicant is an adult female of sound mind. She works for AA Swaleh Advocates as an accounts clerk. She describes herself as financially stable, able to meet the child's needs, and avers that she has taken care of the child since 5th April 2025, when she was given care and control. She has never been charged with or convicted of any criminal offence.
3. The Applicant has a residence which is described as comfortable and suitable for nurturing the child and ensuring her complete and wholesome development. If the adoption application is successful, she proposes to call the child GGC.



4. Ms. C is a single lady.
5. The child was found abandoned in an old vacant house within Kwanza Trading Centre on 12th December 2022. Her rescue was reported at Kwanza Police Station and recorded under OB Entry No xx/12/12/2022. The area children officer managed to secure her admission at Mercy Rescue Trust Centre, where she was admitted for care and protection.
6. On 14th December 2022, the Children's Court at Kitale committed the child into the custody of Mercy Rescue Trust Centre vide Protection & Care Cause No E322 of 2022. Since her rescue, no one has claimed the child. Given the period that has lapsed, it is apparent that the child was abandoned.
7. The child was declared as being free for adoption by the Kenya Children's Home Adoption Society. The relevant certificate bears serial number 1072.
8. The applicant filed a Notice of Motion application dated 10th July 2025 seeking to have GC appointed as the child's guardian ad litem. After hearing the said GCM, a pastor with the [Particulars withheld] Church, the Court appointed her as the guardian ad litem. It directed her to file the requisite report within 30 days. The Court also ordered the Director of Children's Services, Mombasa, to conduct a social enquiry and to prepare and file the requisite report within 30 days as well. The matter was fixed for hearing on 6th October 2025.
9. The cause was heard on 6th October 2025. A total of 5 witnesses testified and were cross-examined. I shall give a summary of their testimony below.
10. The first witness was Ms Caren Njeri Mwangi. Ms Mwangi is a children's officer with the Directorate of Children's Services, Mombasa. Ms. Mwangi testified that they visited the Applicant's home on 2nd September 2025. She produced a report vide which they recommended adoption. The said report also noted that the child exhibited some behavioural challenges which would require therapy.
11. The second witness was Ms. Mary Mwagona. Ms. Mwagona works with Kenya Children's Home Adoption Society as their adoption officer. She testified that they carried out investigations and prepared a report dated 29th July 2025. She also recommended the adoption by the applicant.
12. The applicant was the third witness. It was her evidence that she resides in the [Particulars withheld] area of Mombasa. She testified that she had no children of her own. She applied for foster care of the child and now wishes to transition to adoption. It was her evidence that she is aware of what adoption entails and that she was ready to adopt the child. She stated that she had proposed legal guardians in case anything happened to her.
13. The guardian ad litem GC was the 4th witness. As earlier indicated, Ms C is a pastor. She testified that she visited the Applicant's home on 20th August 2025 and found the applicant, the child, and the nanny. It was her finding that the child was in good health and was very playful. She recommended the adoption, saying that the child was happy and had plenty of food. She testified that she did not observe any behavioural challenges in the child.
14. The 5th and last witness was Ms LC. Ms. LC is a businesswoman. She lives in Nyali and is married with three children. The applicant is her cousin. Ms. LC is the proposed legal guardian, together with her husband. She testified that she understood what legal guardianship entailed. She stated that she was prepared to take up the role and that both she and her husband had agreed on the said issue.
15. I have considered the application herein, materials in support thereof, and evidence by various witnesses. The issues that emerge for determination are: whether the baby is available for adoption,



whether the applicant is fit to adopt the baby, and, most importantly, whether the adoption is in the child's best interests.

16. I have already set out the circumstances under which the child was abandoned. I need not rehash the same here, save to state that since her disappearance, the child's mother hasn't been traced.

17. The child was placed with the applicant on 5th April 2023. The applicant has played the role of the mother to her ever since. Nobody has come forward to claim the child; therefore, the need for consent under sections 186 and 187 of the *Children Act*, 2022, is dispensed with. I am guided by the case of re Baby J [2023] KEHC 1788 (KLR), where the court stated:-

“As indicated by the report of the Child Welfare Society of Kenya, Baby J was abandoned by his biological parents. Attempts to trace them have failed to bear fruits. Consequently, he was declared free for adoption and placed with the Joint Applicants. As an abandoned child, there was no one to give the consent required under section 186(8) of the *Children Act*, 2022. That being the case, I dispensed with the consent required under the aforesaid section of the Act in exercise of my power under section 187(1) of the *Children Act*, 2022.”

18. Regarding the baby's nationality, it is clear that she was found abandoned at Kwanza Trading Centre within the Republic of Kenya. Article 14(4) of *the Constitution* of Kenya, 2010, recognises that a child who is less than 8 years of age, and whose nationality and parents are not known, is presumed to be a Kenyan citizen by birth. In view of this provision, the child herein is presumed to be a Kenyan citizen by birth.

19. In terms of age, the child is above 6 weeks and below 18 years, which provision falls within the age bracket of any adoptive baby pursuant to Section 184(1)(b) of the *Children Act*, 2022. Further, Section 185 of the *Children Act* recognises that any child who is resident in Kenya, whether born in Kenya or not, is eligible for adoption. I have no doubt the child is fit for adoption.

20. Concerning the applicant's suitability, she is a Kenyan citizen aged 46 years old, which places her under the age bracket of not less than 25 years nor more than 65 years for an adoptive parent in compliance with Section 186 of the Children's Act. The applicant has been described as financially stable. She lives in a comfortable home and has a steady income. She has been described as a caring, loving, Christian woman with no criminal record. Since the minor was placed in her custody, the child has fully bonded with her. She also understands the consequences of adoption and knows that it is permanent. She also appreciates the role of a parent and has stated that she will treat the baby like her biological child. Consequently, I have no doubt that she meets the requirements to adopt the baby.

21. On the question of whether the adoption is in the best interests of the baby, I am guided by Article 53(2) of *the Constitution* and Section 8(1) and (2) of The Children's Act 2022 which provide that the best interests of a child is the primary consideration that the court considers when making any decision concerning a baby.

22. The child herein was found abandoned. She needs basic necessities like food, shelter, education, and clothing. She has fully integrated with the applicant. It is clearly in the child's best interests that this adoption application be allowed. I am guided by the case of re AA (Child) [2021] KEHC 9294 (KLR) where the court stated: -

“Article 53 (2) of *the Constitution* emphasises that the best interest of the child is paramount. The child will have a family and a home if the orders are granted. The applicants are willing and ready to give parental guidance and a loving home and family to the child.”



23. In my view, the application has merit. Consequently, I allow the Originating Summons and issue the following orders: -
- a. Baby G, alias GJ, is hereby declared a Kenyan citizen by birth;
 - b. The consent of the biological parents or guardians of Baby G, alias GJ, is dispensed with;
 - c. The applicant is hereby authorized to adopt Baby G, alias GJ, who shall henceforth be known as GGC;
 - d. NCR and LC are hereby appointed the legal guardians of the minor and entrusted with the responsibility of taking care of GGC in the event that the applicant dies or is otherwise permanently unable to take care of her before she attains the age of majority;
 - e. The Registrar General is hereby ordered to make an entry recording the adoption order herein and the date of birth of GGC as being 12th December 2022, in the Adopted Children Register as provided for by Section 201 of the *Children Act, 2022*; and
 - f. The guardian-ad-litem, GC, is hereby discharged;
24. I make no orders regarding costs as this is a non-contentious adoption matter.
25. It is so ordered.

DATED AND SIGNED AT MOMBASA, THE 15TH DAY OF OCTOBER 2025. DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS.

GREGORY MUTAI

JUDGE

In the presence of:-

Ms PC – Applicant; and

Arthur – Court Assistant.

