



REPUBLIC OF KENYA



**In re DA (Child) (Adoption Cause E002 of 2025)
[2025] KEHC 16286 (KLR) (12 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16286 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
ADOPTION CAUSE E002 OF 2025
S MBUNGI, J
NOVEMBER 12, 2025
IN THE MATTER OF THE CHILDREN'S ACT NO. 29 OF 2022
AND
IN THE MATTER OF CHILD D A
AND
IN THE MATTER OF J W K (CARE PARENT**

RULING

1. This court is moved by a notice of motion dated 2nd July 2025, filed by J W K, seeking an adoption order in respect of the minor D A, under the provisions of the Children's Act, 2022.
2. The applicant prays that:
 - a. The Court issues an adoption order allowing her to adopt the said child,
 - b. The Court finds that she has complied with all the legal requirements and procedures necessary for the making of an adoption order.
3. The applicant is a Kenyan citizen of ID No. 13540801, born in 1975, and residing in Bukura, Kakamega County, approached the Kenya Children's Homes Adoption Society on 1st November 2017 seeking to adopt a female child aged between 3 to 4 years.
4. The child, Baby D A, presumed to have been born on 9th February 2017, was found abandoned near Nkalmurunya Secondary School at around 10:00 a.m on 23rd February 2017. The matter was reported at Ongata Rongai Police Station, vide OB No. 33/23/2/2017. The child was subsequently admitted to Mission:180 Children's Home for care and protection on 23rd February 2017. Efforts by the police and the adoption society to trace the child's biological parents or relatives have borne no fruit. On 13th January 2025, the Kenya Children's Homes Adoption Society declared the child free for adoption, as evidenced by the certificate dated the same day.



5. In regard to the best interests of the child principle provided for under Article 53 (2) of *the Constitution* of Kenya, 2010 and Sections 8 (1), (2) and (3) 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 her as outlined in Article 53 of *the Constitution*, 2010 states that a child’s best interests are of paramount importance in every matter concerning the child. This was pronounced in the case of MAA v ABS [2018] eKLR, where it was held that:

“... While considering this matter, this Court is alert to the welfare of the children herein who are of tender years. The matter is not about the applicant/appellant and the respondent; and their interests are secondary to those of the child. The foregoing provisions require this Court to treat the interests of the child as the first and paramount consideration and must do everything to inter alia safeguard, conserve and promote the rights and welfare of the child herein. Acting in the best interest of the children in question. This Court has examined the application in light of the relevant provisions of the Children’s Act, 2022, and the accompanying documentation.”

6. Section 183(4)(b)(i) of the Children’s Act defines a local adoption as one in which both the adopter and the child are Kenyan citizens. Detailed in the child’s birth certificate, the Kenya Children’s Home Adoption Society report and the applicant’s national Identity card, it is established that the applicant and the child are both Kenyan citizens.

7. Section 184(1)(a) of the Children’s Act requires that a registered adoption society declares the child free for adoption. The Kenya Children’s Homes Adoption Society issued a certificate dated 13th January 2025 confirming that the child is free for adoption. This satisfies the legal requirement set by the Children’s Act. This was held so in the Adoption Cause E003 of 2024) [2025] KEHC 4529 (KLR), where the court stated that;

”The preliminary requirements for the making of an adoption order are set out in Section 184(1) of the Children’s Act which provides that No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free or adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf.”

8. Section 185(2)(a) provides that the child must have been in the continuous care and control of the applicant for at least three consecutive months preceding the filing of the application. The agreement done on 7th February 2025 between the applicant and the Kenya Children’s Home confirms compliance with this provision. After the signing of the agreement, the child was placed under the special care of the applicant for the statutory required period in which, there were several return visits done by the applicant for the purpose of assessment. This was done on 7th March 2025, 4th April 2025 and 2nd May 2025 to assess compliance by the applicant.

9. Section 185(2)(b) requires that the application be supported by a report made by a duly registered adoption society. The Kenya Children’s Home Adoption Society’s report dated 13th January 2025, prepared by the Adoption Programme Officer, has been duly filed.

10. Section 185(4)(a) and (b) requires that a child capable of being adopted must be an orphan or a child whose identity or whereabouts of the parents or guardians are unknown. The evidence adduced shows the child was abandoned on 23rd February 2017 and no claimants have appeared since 2017 hence, the child qualifies for adoption. This is supported by the report of the good Samaritan called Pauline Atieno who was the first person to find the child and take her to the police station on 23rd February



2017. Pauline Atieno was questioned on 13th January 2025 by a Kenya Children’s Home personnel to give status to the matter and she confirmed that she’s never heard anyone ask for the child. In addition, the Kenya Police report dated 28th August 2017 in relation to the abandoned baby D A, OB No. 33/23/2/2017 confirmed that the birth mother/guardian has not yet been found. A report from The Ministry of Labour and Social Protection State Department of Social Protection Department of Children Services dated 26th November 2020 confirmed that no relative of the minor has come forward.
11. Section 186(2)(a) provides that the applicant must have attained the age of 25 years but not above 65 years, and Section 186(2)(b) requires that the applicant be at least 21 years older than the child. The applicant, born in 1975, is 50 years old, while the child was born in 2017 (age 8). She is therefore 42 years older than the child. These age requirements are satisfied.
 12. Section 194(1)(g) and (h) requires that both the child and applicant be assessed by a registered adoption society, the report be delivered to court, and that the registered council certify the child as free for adoption. The Kenya Children’s Home Adoption Society has produced a certificate dated 22nd January 2025 declaring that the child is free for adoption. Further, Kenya Children’s Homes Adoption Society has provided a feedback after the lapse of the statutory three months custody care before an adoption permission is allowed to commence.
 13. The Kenya Children’s Homes Adoption Society report and certificate fulfill these statutory conditions.
 14. The applicant has filed the following documents in support of her application:
 - a. Adoption Society Report dated 13th January 2025.
 - b. Agreement for the 3-month care period between the applicant and the Kenya Children’s Home Adoption Society dated 7th February 2025
 - c. Child Placement Ratification dated 17th January 2018
 - d. Applicant’s Medical Examination Report dated 2nd November 2017
 - e. Guardianship confirmation, written and confirmed by the applicant’s friend, dated 1st November 2017
 - f. Family Support confirmation, written and confirmed by the applicant’s sister, dated 18th January 2018
 - g. Police Clearance Certificate detailing the history of the applicant, dated 6th December 2017
 - h. Application letter for adoption directed to the Kenya Children’s Home Adoption Society, dated 1st November 2017
 - i. Child’s admission form to Mission:180 Children’s home, dated 23rd February 2017
 - j. D A’s Birth Certificate (Cert No. 0102404722)
 15. The Court is satisfied that the applicant is medically fit, financially stable, and has family support, which ensures the child will be raised in a loving, safe, and stable environment.
 16. Having carefully considered all the material before me, I am satisfied that the adoption meets the conditions of part XIV of the [Children Act](#) and is in the best interest of the child. The Applicant fully understands the implications of an order of adoption. She has met all the conditions of an adopter set out in the Act.
 17. Accordingly, the Court makes the following orders:



- a. That J W is hereby authorized to adopt the child currently known as Baby D A.
- b. That the child shall henceforth be known as D A.
- c. The Kenya Children's Homes Adoption Society shall supervise post-adoption placement for the next six months and file a progress report with the Court.
- d. There shall be no order as to costs.
- e. File closed.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 12TH DAY OF NOVEMBER, 2025.

S.MBUNGI

JUDGE

In the presence of:-

CA: Angong'a

Parties absent though aware of the ruling date.

The court Assistant to upload the ruling forthwith on the CTS.

