In re PN (Minor) (Adoption Cause E015 of 2025)
[2025] KEHC 16485 (KLR) (11 November 2025) (Judgment)

Neutral citation: [2025] KEHC 16485 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

ADOPTION CAUSE E015 OF 2025

PN GICHOHI, J

NOVEMBER 11, 2025

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF

P N (MINOR

IN THE MATTER OF

EBM ..... APPLICANT

JUDGMENT

1. By an undated Originating Summons filed on 2nd April, 2025 and expressed under Sections 8 and 183 of the Children's Act, Sections 9 of the *Kenya Citizenship and Immigration Act* No. 12 of 2011 and Article 14 of *the Constitution* of Kenya. The Applicant sought for the following Orders: -

    1. The Applicant be authorized to adopt the child P N.
    2. The consents of the biological parents be dispensed with as the child was abandoned.
    3. Upon the making of adoption Orders the said child be known as Tracy Bosibori.
    4. The Registrar General do make the appropriate entry of Tracy Bosibori in the Adopted children Register.
    5. The child Tracy Bosibori be presumed to be Kenya citizen born in Kenya and the Director of Immigration Services do issue Tracy Bosibori with Kenya Passport.
    6. Hudson Otara Makori be appointed Legal Guardian of the child Tracy Bosibori.

2. The application is supported by an Affidavit sworn by the Applicant, E B M, a 55-year-old Kenyan citizen. The Applicant, stated that she is an unmarried woman and a business owner residing in Kiamunyi, Nakuru County, has no biological children and has a clean criminal record, as evidenced by a certificate of good conduct attached to the application.

3. She depones that no payment or reward has been given or promised in consideration of the adoption. She seeks to adopt a female child, P N, who was placed in her care on 7th December, 2017.

4. Upon this matter being mention on 14th May, 2025, this Court directed the Director of Children Services to file a report. The Child Welfare Society of Kenya (CWSK) submitted two reports dated 18th June, 2025, detailing the child's history that P N was born on 18th November, 2016, at Nakuru County Hospital to one E J T.

5. Due to the child being born from an extramarital affair, and the mother's limited income of Kshs. 6,000/= at the time and with two other children to support, the mother offered the child for adoption.

6. The report indicates that the biological mother contacted CWSK a day after the birth that is on 19th November, 2016, to offer the child for adoption. Despite being counseled, she remained firm in her decision and signed a letter relinquishing her parental rights. On 21st November, 2016, and again on 12th May, 2017, she was counseled on the implications of her decision, including the loss of any future claim to the child. She consistently consented to the adoption and signed an acknowledgment certificate.

7. Subsequently, that on 10th November, 2017, the Sub-County Children Officer, Nakuru, successfully applied to the Children's Court for the child to be committed to the CWSK Arap Moi TPS Children's Home, a decision formalized under C&P No. 528 of 2017. The CWSK consequently recommended the Applicant as a suitable person to adopt the child.

8. A separate report from the County Children's Coordinator, Pilot Khaemba, dated 16th July, 2025, corroborated the CWSK findings. The report confirms that the Applicant owns the home where she and the minor reside, as evidenced by Title Deed Njoro/Ngata Block 11/191. A home visit conducted on 4th July, 2025 concluded that the environment is conducive for raising a child. The report also showed that the child, now a Grade 4 student at Kagaki School, has bonded well with the Applicant and appeared jovial. Based on the record and the Applicant's proven financial ability to care for the minor, the County Children's Coordinator recommended her as a suitable adoptive parent.

9. During the hearing, two witnesses testified. The Applicant, E B M, testified that she has lived with the child for nearly 10 years and that no one has ever claimed the child during that time. Relying on the filed documents, she stated her ability to provide for the child, who is now in Grade 4, and requested the court to grant the adoption order.

10. The second witness was Hudson Olala Makori, the Applicant's brother. He requested the Court to appoint him as the legal guardian for the child adding that he understood his role which includes taking care of all the needs of the minor in the event that the Applicant becomes unable to care for the child due to incapacity or other reasons.

Analysis and Determination

11. This court has considered this application together with the Supporting Affidavit, the reports filed as well as all the evidence adduced in support thereto. The prerequisites for adoption are set out in section 184 (1) of the Children's Act 2022 which provides –

> " A person shall not commence any arrangements for the adoption of a child unless –
>
> a. the council in accordance with the rules has declared the child free for adoption.

b. the child has attained the age of six weeks."

12. The subject child herein was born on 18th November, 2016 in Bahati Sub-County Hospital within Nakuru County. The Child is now about 9 years of age and thus above the six (6) weeks age limit provided for in law.

13. The Child Welfare Society of Kenya declared the subject minor herein free for adoption by the Certificate of declaring a child free for adoption dated 12th May, 2017. This Court is therefore satisfied that the legal pre-requisites for an adoption order have been met.

14. The other duty for this Court in such an Application is to determine suitability of the adoptive parent(s). As to who may apply to adopt a child, Section 186 (1) & (2) of the *Children Act* provides that; -

> " The Court may make an adoption order on application by—(a)a sole applicant; or(b)two spouses jointly.(2)The Court shall not make an adoption order in any case unless—(a)the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and(b)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."

15. The evidence on record shows that the Applicant herein is a Kenya citizen aged 56 years now. She is thus between the age of 21 and 65 years indicated in the Act. It is further indicated that the Applicant herein is unmarried and has never conceived any children of her own. She is states that she is a Christian attending SDA central Church located in Nakuru.

16. The report from the Child Welfare Society of Kenya indicates that the child has been in the Applicant's custody since 7th December, 2017, when the minor was approximately one year old. This placement, which has now lasted for over eight years, has fostered a strong bond between the Applicant and the child. The Court is satisfied that the Applicant is a fit and proper person to adopt the minor.

17. Concerning the Applicant's financial standing and residential circumstances, the report outlines that she has built a three-bedroom house on a 50 by 100-foot plot in Baraka Estate. The minor has her own bedroom, described as clean and well-maintained. The compound offers ample space for the child to play freely. The Applicant's assets include a three-bedroom house, two 100x100 foot parcels of land and an additional half-parcel in Kabarak, a 100x100 foot parcel in Lanet, and a 50x100 foot parcel in Ngata, Nakuru. Additionally, she operates a business generating a minimum income of Kshs. 20,000 per month, which is sufficient for their upkeep. Accordingly, this Court finds the Applicant to be financially stable and capable of providing for the child's needs.

18. The Applicant has provided a copy of her police clearance certificate, issued on 16th October, 2024, confirming that she has no criminal record. Furthermore, the Applicant has nominated her brother, Hudson Otara Makori, to serve as the child's legal guardian. Mr. Makori has consented to this appointment through a sworn affidavit and during his testimony at the hearing on 23rd July, 2025.

19. Based on the evidence presented, including the reports from social welfare agencies, the Applicant's testimony, and the proposed guardian's consent, this Court is satisfied that the Applicant is a suitable adoptive parent.

20. Regarding the prayer to declare the child a citizen of Kenya. Article 14(4) of *the Constitution* with regard to the issue of citizenship provides as follows: -

> " (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."

21. The subject child was born on 18th November, 2016, and offered for adoption by her biological mother, E J T, via a letter dated 19th November, 2016, and witnessed by Chester Omonde. The child was subsequently placed in Arap Moi Children's Home. A year later, on 10th November, 2017, the child was committed to the legal custody of the Child Welfare Society of Kenya Arap Moi TPS through Care and Protection Case No. 528 of 2017 at the Nakuru Law Court. The minor was then placed in the care of the Applicant on 7th December, 2017, who has since taken continuous parental responsibility.

22. Given that the child was born in Bahati Sub-County Hospital, Nakuru County, the child is a citizen of Kenya by birth.

23. Regarding the request to dispense with the consent of the biological parents, the biological mother voluntarily offered the minor for adoption and relinquished her parental rights in the letter dated 19th November, 2016, as witnessed by Chester Omonde. This action satisfies the legal requirement to proceed with this adoption. Indeed Section 186 (8) (a) of the *Children Act* provides that;-

> " Subject to the provisions of this section, an application for an adoption order in respect of a child shall be accompanied by written consents of the following persons—(a)a parent or guardian of the child, or any person who is liable by virtue of any order or agreement to contribute to the maintenance of the child."

24. Accordingly, her consent to give up the minor for adoption is received and noted. Accordingly, this Court finds this adoption merited and allows it as follows:-

    1. The Applicant E B M is hereby authorized to adopt baby P N (the minor).
    2. Upon adoption the minor shall henceforth be called Tracy Bosibori.
    3. The child is declared to be a Kenyan citizen by birth and is entitled to all the rights and benefits pursuant thereto.
    4. That the Registrar General is hereby directed to make the appropriate entry of Tracy Bosibori in the Adopted Children's Register.
    5. The Registrar of Births and Deaths is hereby directed to issue the Applicants with a birth certificate reflecting the child identity together with all relevant documents in respect to the child, Tracy Bosibori.
    6. Hudson Otara Makori is hereby appointed the Legal Guardian of Tracy Bosibori.
    7. B K O is discharged from the duties of Guardian Ad Litem.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 11TH DAY OF NOVEMBER, 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:

E B M -Applicant in person

Kamau, Court Assistant