



**In re Application for Guardianship to MNN (Civil Case E007 of 2025)
[2025] KEHC 16020 (KLR) (7 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16020 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CIVIL CASE E007 OF 2025
MA ODERO, J
NOVEMBER 7, 2025**

IN THE MATTER OF

EWM APPLICANT

JUDGMENT

1. The Applicant herein EWM has filed the Originating Summons dated 12th March 2025 seeking to be appointed as the legal guardian to MNN (a minor).
2. The application was premised upon Section 25 of the /akn/ke/act/2001/8 Children Act} 2022 and was supported by the affidavit of even date sworn by the Applicant. The matter was heard by way of oral evidence on the virtual platform.
3. The Applicant told the court that the subject child who is now aged six
(6) years old is the daughter of the applicant's cousin who passed away in June 2023. Following the demise of the single mother the Applicant and her husband took in the child and have been raising her as their own.
4. The applicant now seeks to be appointed as the legal guardian of the child, so as to enable her include the child in her medical cover and to enable her make decisions relating to the child's well-being and education.

Analysis And Determination

5. I have carefully considered this application, the documents supplied in support thereof as well as the evidence adduced before the court.
6. Section 122 (1) of the *Children Act* 2022 authorises a court to appoint a guardian for any child who is resident in Kenya whether or not the child was born in Kenya.



7. In this case the subject-child is a girl child who was born in the Republic of Kenya. A copy of the child's Birth Certificate Serial No. 50XXXX appears as annexure 'ENM 1(a)' to the Supporting affidavit dated 12th March 2025 and indicates that the child was born on 14th April 2019 at PGH Nyeri.
8. The child is also resident in Kenya as she resides with the family of the Applicant in Gataragwa in Kiini West Sub-County of Nyeri County.
9. The applicant told the court that the subject child was born to her cousin one CWN who died in the year 2023. She has annexed to her supporting affidavit a copy of the Death Certificate Serial No. 17XXXX Annexure 'ENM 1(b)'. The document indicates that the child's mother passed away in Embu County on 18th June 2023.
10. The Applicant told the court that her cousin was a single mother, that the whereabouts of the child's father was not known to the family and that the father has not been in the life of the child.
11. In the case of DT (an infant) HCMA 004 of 2008 the court stated as follows;-

“While the primary right of a child is to grow up under the tutelage of his or her parents, or parent for the obvious reasons of emotional attachment, if it is shown to the satisfaction of a competent authority and in this case the court that vesting legal guardianship of the child in the applicants, would solve the best interest of the child then, it would be proper for this court to make an order removing such child from the parent. The court has to weigh the emotional loss of staying with ones parents against the opportunities that would come with relocation away from the hands of the parents.”
12. In deciding upon any matter involving a child, courts are obliged to give priority to the 'best interests' of the said child. Section 8(1) of the [Children Act](#) 2022 provides that:-
 - (8) In all actions concerning children, whether undertaken by public or
 - (1) private social welfare institutions, courts of law, administrative authorities or legislative bodies.
 - a. The best interests of the child shall be the priority consideration.” [Own emphasis]
13. The child in question was born of a single mother who unfortunately passed away when the child was four (4) years old. The applicant who is a cousin to the child's mother decided to take the child into her home and raise her as her own. The Applicant has enrolled the child in the same school that her children attend. Annexure 'ENM 2B' is a letter dated 16th January 2024 written by the Assistant Chief confirming that following the demise of her mother the child was taken in by the Applicant.
14. The Applicant is a teacher at Gatarakwa Girls High School. The Applicant is a mature woman who is in a stable marital union. She has annexed a copy of her Marriage certificate (Annexure 'EWM 5').
15. The Applicant has been living with the child and providing for all her needs since April 2023 to date. No doubt the child has bonded with the Applicants family.
16. I was able to see and interact with the child on the virtual platform. She was a healthy lively child who cheerfully answered all questions put to her. The child referred to the Applicant as 'Mum'.



17. I have perused the report dated 24th September 2025 prepared by the Department of Children Services. The report indicates that the child is well cared for and is thriving in the care of the Applicant.
18. I find that this application will serve the best interest of the child. I therefore allow the same and make the following orders:-
1. EWM is hereby appointed as the legal guardian for MNN (a minor) until she attains the age of eighteen (18) years or unless this order is earlier revoked or later extended by the Court in accordance with the law.
 - (2) The Applicant is authorised to make all decisions concerning the child's education, medical care and external welfare as her legal guardian.
 - (3) No orders on costs.

DATED IN NYERI THIS 7TH DAY OF NOVEMBER 2025.

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MAUREEN A. ODERO

JUDGE

