



In re Application for Kinship Adoption of MTC (Minor) (Adoption Cause E140 of 2025) [2025] KEHC 15988 (KLR) (Family) (7 November 2025) (Judgment)

Neutral citation: [2025] KEHC 15988 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E140 OF 2025
H NAMISI, J
NOVEMBER 7, 2025
IN THE MATTER OF THE CHILDREN ACT, CAP 141 OF THE LAWS OF KENYA
AND
IN THE MATTER OF M T C (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION**

IN THE MATTER OF

DPTC 1ST APPLICANT

MNT 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 20 May 2025, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. Spent;
 - ii. Spent;
 - iii. That the Applicants be authorised to adopt M T C to be known as M T C;
 - iv. That the child be presumed a Kenyan citizen by birth;
 - v. That the child’s date of birth be 30 September 2009 and the place of birth be Fatima Maternity Hospital, Kajiado;
 - vi. That the Registrar General be directed to enter the adoption in the Adopted Children’s Register;



- vii. That the Director Immigration be authorised to issue the child with a Kenyan passport.
2. The matter was canvassed by way of viva voce evidence on the virtual platform on 18 September 2025.

The Child

3. The child (male) was born in Kajiado County on 30 September 2009 to Samuel Chege Thiong'o and Mary Wambui Macharia. He is 15 years old and is the first born of two children. He and his sister reside with their grandparents in Naivasha, Nakuru County. His biological mother passed away in March 2023, while his biological father resides and works in the USA.
4. The child appeared before the Court and confirmed that he would like to be adopted by the Applicants, who are his grandparents.

The Applicants

5. The Applicants are Kenyan citizens. The 1st Applicant is aged 72 years and resides in Naivasha, Nakuru County. The child herein is his grandchild, a child to his son, Samuel Chege Thiongo. The 2nd Applicant is 63 years old. Both Applicants are farmers. They have been married since December 1980.
6. The Applicants have been guardians of the child since April 2023, pursuant to an order of the Children's Court in Naivasha Case No. E010 of 2023.
7. The 1st Applicant presented copies of Bank statements, Police Clearance certificates, title deed, recommendations and referee information, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose that the Applicants are financially, socially, physically and mentally fit to adopt the child.
8. The Applicants confirmed that they understand that an adoption order is irreversible.
9. Additionally, pursuant to section 195 of the *Children Act*, the Applicants provided consent from R W T, their daughter and paternal aunt to the child herein, agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants. The proposed legal guardian resides in the USA.

The Biological Parents

10. S.T.C and M.W.M are the child's biological father and mother, respectively. The biological father resides in the USA. He confirmed to the Court that he has consented to the adoption of his first born, due to the difficulties he is facing. He also provided a written consent.
11. The biological mother passed away in March 2023. A copy of her Certificate of Death was provided.
12. Based on the foregoing, I, therefore, dispense with the requirement for the consent of the biological mother.

The Adoption Approval Process

13. KKPI Adoption Society conducted an assessment of the Applicants and sought the consent of the child and her biological father. The Agency filed its report dated 27 November 2024 recommending the adoption of the child. The child was declared free for adoption by the Adoption Society vide a Certificate of Declaring a Child Free for Adoption serial number 0911.



14. On 19 June 2025, the Court issued an order appointing M.N.M as the child’s Guardian ad Litem, and further directing the Guardian ad Litem and Director of Children’s Services to investigate the suitability and fitness of the Applicants and subsequently file their respective reports.
15. The Guardian ad Litem filed her report dated 28 August 2025, noting that the Applicants provide a safe, loving and nurturing home for the child. The Directorate of Children’s Services, Nairobi County filed its report dated 4 September 2025, recommending the adoption of the child by the Applicants herein.
16. Section 186(5) of the *Children Act* provides:

The Court shall not make an adoption order in favour of the following persons unless the Court is satisfied on reasons to be stated on the record that there are special circumstances that warrant the making of the adoption order an applicant or joint applicants who has, or both have, attained the age of sixty-five years
17. Section 193(1) of the *Children Act* provides that kinship adoption order may only be made in favour of a relative of the child. In this instance, the Applicants are paternal grandparents of the child. These special circumstances allow this Court to overlook the age of the Applicants in granting the adoption orders.
18. In view of the foregoing, the Court is satisfied that:
 - i. The proposed adoption is a kinship adoption, meaning that the child will continue to be within the family.
 - ii. The adoption will be in the best interest of the child; and
 - iii. The Applicants have been approved as prospective adoptive parents by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus they are able to effectively handle their parental responsibilities
19. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
 - i. The Applicants, D.P.T.C and M.N.T, are hereby authorised to adopted the child known as M.T.C;
 - ii. The Registrar General is directed to enter this Order in the Adopted Children’s Register and to issue a Certificate to that effect;
 - iii. The Director Immigration is hereby directed to issue the child with a Kenyan passport
 - iv. The Guardian ad Litem is hereby discharged;
 - v. R.W.T is hereby appointed as the legal guardian of the child.

DATED AND DELIVERED AT NAIROBI THIS 7 DAY OF NOVEMBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on a virtual platform in the presence of

Applicants: Ms. Kiguatha

Court Assistant : Lucy Mwangi

