



REPUBLIC OF KENYA



**In re AK alias Unknown (Child) (Adoption Cause E191 of 2025)  
[2025] KEHC 17436 (KLR) (Family) (28 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 17436 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E191 OF 2025  
PM NYAUNDI, J  
NOVEMBER 28, 2025  
IN THE MATTER OF AMELIA KIOJA ALIAS ABANDONED  
UNKNOWN CHILD ALIAS UNKNOWN ALIAS ABANDONED  
CHILD ALIAS UNKNOWN AFRICAN FEMALE CHILD**

**IN THE MATTER OF**

**JNW ..... 1<sup>ST</sup> APPLICANT**

**MJT ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Vide Originating Summons, dated 1st July, 2025 the Applicants herein seek the following prayers, THAT:-
  - i. Spent
  - ii. Spent
  - iii. They be authorized to adopt Amelia Kioja Alias Abandoned Unknown Child Alias Unknown Alias Abandoned Child Alias Unknown African Female Child.
  - iv. The child be presumed a Kenyan Citizen by birth.
  - v. The child's date of birth be 28th April, 2023 and the place of birth be Bahati, Sub LOC.
  - vi. The Registrar General be directed to enter the adoption in the Adopted Children Register.
  - vii. The Director Immigration be authorized to issue the child with a Kenyan Passport.



- viii. The 2nd Applicant's sister, Dorcas Jebet Chemirmir and her husband Elkana Kipkoech Kitur, be appointed the legal guardians of the child in the event of the death or incapacity of the Applicants before the child is of age or independent.
- ix. The Court be pleased to make any further orders it deems necessary.
2. The Applicants are Kenyan Citizens residing in Nairobi County, they solemnized their marriage on 16<sup>th</sup> December, 2006 as per annexed copy of marriage certificate serial number 620282. They are in gainful employment hence financial stable to take good care of the child. That they have the desire to expand their family as well as to offer the child a loving and care home. Consequently, they have had custody for 10 months June, 2021. The minor is 2 years, 4 months old. They do not biological children. They both understand the implications of the adoption order, they are aware that the child will have full rights as would a biological child and the order is not reversible.
3. Minor herein Amelia Kioja Alias Abandoned Unknown Child Alias Unknown Alias Abandoned Child Alias Unknown African Female Child presumed to have been born on 28<sup>th</sup> April, 2023. The child was found abandoned by Assistant Chief of Bahati Sub-Location on 6<sup>th</sup> May, 2023. The matter was reported at Bahati Police Post Vide O.B Number 06 06 06 2023. Thereafter, the child was admitted to Nakuru Technical Referral Hospital for medical checkup, she was discharged and later temporarily placed at New Life Home Trust for care and protection. On 26<sup>th</sup> March 2024, the child was formally committed at the same facility pursuant to Court order issued by the Chief Magistrate Children's Court at Nakuru vide Protection and Care File Number E 012 of 2023. That police issued a final letter dated 21<sup>st</sup> May, 2024 stating that the efforts to trace the child's parents bore no fruit.
4. The Applicants approached Change Trust Adoption Society, they were taken through an Explanatory Memorandum they signed Certificate of Acknowledgment. Consequently, Change Trust Adoption Society, through their committee sitting held on 20<sup>th</sup> May 2022, confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide freeing certificate Serial Number 00724 dated 10<sup>th</sup> November, 2024 and placed with the Applicants.
5. That all the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the Applicants to adopt the child. A report dated 23<sup>rd</sup> September, 2025 from Mr. Njau, Sub-County Children's Officer asserted that the Applicants have met all legal requirements for local adoption as stipulated in the *akn ke act 2001 & Children Act 2022*, also they are socially, mentally and financially stable, they are clear of any criminal claim as evidenced by police clearance certificates. The home environment was found to be conducive for the growth and development of the child thus Officer recommending the adoption process. Consequently, Laura Vulimu Enid Gimayio, Guardian Ad Litem, presented report dated 22<sup>nd</sup> September, 2025 in which during her home visit, she observed that the child has settled well with the Applicants. The Applicants are capable, responsible who can provide a stable, secure and filled with warmth providing a nurturing environment for the child continued growth and development hence recommending the Adoption proceedings.
6. Proposed Legal Guardians (Dorcas Jebet Chemirmir And Elkana Kipkoech Kitur) are married couple residing in Machakos County. They are related with the Applicants in form of affinity. In addition, they consented to the adoption proceedings affirming that they understand the legal implications and they will assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.



7. The Court interviewed the minor and it was observed strong bond between them and that she acknowledged the Applicants as her parents.

### **Determination**

8. The Court may make an adoption order on application by-
- (1)
    - (a) Sole applicant; or
    - (b) Two spouses jointly.
  - (2) The court shall not make an adoption order in any case unless-
    - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
    - ii. 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.
9. This Court is alive to the jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) *akn ke act 2001 8 Children Act 2022*. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, Section 8 of *akn ke act 2001 8 Children Act 2022* and the UN Convention on the Rights of the Child & Banjul Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.
10. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Local Adoption as required under Section 193 of the Children’s Act, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the Children’s Act Cap 141 of the Laws of Kenya. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed. They desire to expand their family as well as to offer the child a loving and care home cannot be disregarded.
11. Article 14 (4) of *akn ke act 2010 constitution the Constitution* of Kenya 2010 provides that: -
- “(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.”
12. This Court is therefore allow the application and orders as follows that;
- a. The Applicants, Joshua Nyamu Wagogi And Magdaline Jepkosgei Tanui are hereby allowed to adopt Amelia Kioja Alias Abandoned Unknown Child Alias Unknown Alias Abandoned Child Alias Unknown African Female Child .
  - b. Henceforth, the child shall be known as Sarah Amelia Joshua.
  - c. She is presumed to be a Citizen of Kenya by birth.
  - d. Her date of birth shall be 28<sup>TH</sup> April, 2023 At Bahati, Sub LOC.



- e. Dorcas Jebet Chemirmir And Elkana Kipkoech Kitur are hereby appointed as Legal Guardians of the child.
- f. The Registrar General to enter this order in the Adoption Children Register.
- g. The Registrar General do issue the child with Birth Certificate.
- h. The Director Immigration is authorised to issue the child with a Kenyan Passport.
- i. The guardian ad litem is hereby discharged.

It is so ordered.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**P. M. NYAUNDI**

**JUDGE**

In the presence of;-

Fardosa Court Assistant

Joshua Nyamu Wagogi and Magdaline Jepkosgei Tanui in person

