

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CORAM: R. MWONGO, J.
ADOPTION CAUSE NO. E006 OF 2025

IN THE MATTER OF THE CHILDREN ACT CAP. 141 OF THE LAWS OF KENYA
IN THE MATTER OF THE ADOPTION OF BABY R. (A CHILD)

VWN.....SOLE FEMALE APPLICANT

JUDGMENT

The Application

1. Through an originating summons dated 29th May 2025, the applicant is seeking the following orders from this court:
 - 1) That she be authorized to adopt Baby R (the child);
 - 2) That upon making the adoption orders, the said child be known as AZW;
 - 3) That the Registrar General do make the appropriate entry of this adoption in the Adopted Children's Register;
 - 4) That the child be presumed to be a Kenyan citizen born in Kenya and that the Director Immigration services issue a Kenyan passport in the name of AZW; and
 - 5) That SKN be appointed legal guardian of the child AZW.

The Applicant's Background

2. According to the statement in support of the originating summons, the applicant is a 46-year-old mother of one adult child. She lives in Embu County where she owns a retail shop. She stated that she has the means and income to enable her to raise the child and provide for all his needs, now and in the future. She declared that she has never been convicted on any of the offences named under the Children Act, neither has she received money or any promise to compel her to adopt the child. The applicant understands her obligations as an adoptive parent and she is confident that she can give the child a decent life upon adoption.

Background of the child

3. The child was abandoned outside Muranga Hospital mortuary and she was taken to the same hospital by a Good Samaritan. The matter was reported at the

Murang'a Police station and the Child Welfare Society of Kenya (CWSK). The child was temporarily placed in a home as the CWSK and local administration tried to trace her parents. Advertisements were placed in various local dailies but the nobody claimed the child. It is then that the child was declared free for adoption since nobody had claimed her.

Guardian Ad Litem

4. The application for adoption was accompanied by a Chamber summons of even date seeking that RWM be appointed as Guardian *ad litem*. The application was allowed through an order of the court issued on 30th July 2025 and RWM was appointed Guardian *ad litem* in accordance with section 188(1) of the Children Act. The court also ordered that the secretary of the Children's Services files a report and the appointed Guardian *ad litem* file her report both as required by law.

Report by the Guardian ad litem

5. In accordance with section 188(2)(b) of the Children Act, the Guardian *ad litem* filed a confidential report dated 08th September 2025 in court. In it, she confirmed her understanding of the case and highly recommended the applicant as an adoptive parent to the child. She stated that the child was placed under the applicant's care at the age of 1½ years and so far, she had developed well.
6. She stated that the child is presently going to school and progressing well. The applicant and the child relate well and the child's needs are sufficiently met. She has known the applicant for more than 10 years and she has had a chance to visit her home on many occasions. She stated that the applicant is financially stable and her the home is comfortable for raising the child.

Report by the Secretary, Children Services

7. Section 184(4) of the Children Act requires that the Office of the Secretary of Children Services shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings. In the absence of regulations and appointment of that officer, the Court has allowed a practice of receiving reports from the Children's Officer. In compliance with the requirement of this provision for a report, the Children Officer availed a report dated 12th November 2025. The report details the applicant's background and family life. Upon conducting a home visit, the Children's Officer established that the applicant lives in a rented one-bedroomed house in Embu Town. The house is well serviced with

necessary amenities, and the child lived there. The child has adjusted to and bonded well with the family and she looks comfortable. The applicant understands her obligations and responsibilities as an adoptive parent. The Report recommended the applicant highly as an adoptive parent who is fit to give a permanent home to the child.

Suitability of the applicant for adoption

8. Section 186(1) and (2) of the Children Act provides for persons who may adopt a child, as follows:

“(1) 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.”

9. The applicant fulfills the conditions set out in these provisions, as she is a sole applicant who is within the allowable age bracket, and is 25 years older than the child. She is also a Kenyan citizen. Therefore, this is a local adoption.

Best interest of the child

10. ***A child’s best interests are of paramount importance in every matter concerning the child.*** This is the dictate of Article 53(2) of the Constitution. Section 4(2) of the Children Act also elevates the best interest of the child and provides:

“Despite subsection (1), a provision in another legislation on children matters may prevail if it offers a greater benefit in law to a child.”

Report of the Child Adoption Society

11. Section 185(2) of the Children Act requires that an application for adoption be supported by a report of a duly registered adoption society. In this case, the Child Welfare Society of Kenya (CWSK) filed a report detailing the circumstances and history of the child since she was rescued by a Good Samaritan up to the time of the current proceedings. Since the child was abandoned, efforts were made to try and trace the child’s family but none of the efforts bore fruit.

12. The CWSK prepared all the necessary documentation. In the absence of adoption regulations under the Children Act, 2022, the CWSK declared the child free for adoption in accordance with section 184(1)(a) of the Children Act, 2022 in the absence of adoption regulations under the Children Act, 2022.

Conclusion and Disposition

13. The documentation presented in court regarding the adoption of the child qualifies her adoption by the applicant. The applicant also meets the legal requirements necessary to enable her to adopt the child.

14. In this court's view, it is in the best interest of the child that he be adopted by the applicant.

15. Accordingly, therefore, the prayers sought are granted as follows:

- 1) This adoption is deemed to be a local adoption;
 - 2) The applicant be and is hereby authorized to adopt Baby R.;
 - 3) Hence forth, Baby R. shall be known as AZW;
 - 4) The Registrar General shall make the appropriate entry regarding the adoption of AZW in the Adopted Children's Register;
 - 5) The Registrar shall issue the applicant with a certified copy of the entry pursuant to Order 4 herein in the Adopted Children Register, upon payment of the prescribed fee;
 - 6) The child AZW is presumed to be a Kenyan citizen born in Kenya;
 - 7) The Director Immigration Services is hereby ordered to issue the child a Kenyan passport in the name of AZW;
 - 8) The Guardian *ad litem* is hereby discharged; and
 - 9) SKM is hereby appointed Legal guardian of the child VMM.
16. Orders accordingly.

Delivered electronically, dated and signed at Embu High Court this 3RD DAY OF DECEMBER, 2025, pursuant to notices issued on 24th and 26th November 2025, as to electronic delivery.

**R. MWONGO
JUDGE**