



**In re Adoption of Baby MS aka AK (Minor) (Adoption Cause E034 of 2025) [2025] KEHC 18200 (KLR) (4 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18200 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
ADOPTION CAUSE E034 OF 2025**

**JM NANG'EA, J  
DECEMBER 4, 2025**

**IN THE MATTER OF ADOPTION OF BABY MS AKA AK...SUBJECT MINOR**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Vide Originating Summons dated 29<sup>th</sup> October, 2025 the Applicants pray for orders as hereunder;
  1. That the Applicants herein be authorized to adopt Baby MS AKA AK and the Registrar-General does make the appropriate entry in the Adopted Children's Register.
  2. That HWM be appointed as the Legal Guardian of the Minor.
2. The application is supported by the Applicants' affidavit and oral evidence in which they express their desire to adopt the Child aged 1 year and 7 months or thereabouts. The Child was said to have been abandoned by its biological mother and was taken to Haven of Hope Children's Home (Nakuru) for care giving. The Child was thereafter declared free for adoption and handed to the Applicants who have been having custody. The Applicants who are 33 and 42 years old aver that they are capable of taking care of the Child. Their other family members are not opposed to the Application.
3. PNS is the Child's Guardian Ad Litem appointed by the court. She positively appraises the Applicants noting that they have been taking good care of the Child after taking physical custody.
4. The Nakuru East Sub-County Children's Co-ordinator (Caroline Ngati) does not also object to the Application and approves the Applicants as suitable to adopt the Child. She testified to visiting the Applicants and at home which offers a good environment for upbringing of the subject Child.



5. Criminal proceedings in Nakuru Chief Magistrate’s Court Case No. E940 of 2024 showing that the biological Mother of the Child (PC) was charged and convicted for neglecting and abandoning the Minor has been put before the court. She was put on Probation Programme for 3 years for the offence.
6. Having perused the reports filed and evidence in relation to the Application, the court’s duty is to determine if the Applicants are suitable to adopt the Subject. Article 53 (2) of the Constitution provides that the Child’s best interests are the paramount consideration in every aspect concerning the child’s welfare. This legal position is reiterated in Section 8 (1) of the Children’s Act 2022 which provides that:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.”
7. This principle is underscored in Article (2) of the Geneva Declaration of the Rights of the Child (1924) as well as in Article 3 of the United Nations Convention on the Rights of the Child. The Kenyan courts in many cases including in Re B (Baby [2018] eKLR have given effect to this important principle by restating that the law is intended to protect and promote the welfare of children by according them stable family units under which to grow. Indeed Article 45(1) of the Constitution declares as follows:

“The family is the natural and fundamental unit in society and the necessary basis of social order, and shall enjoy the recognition and protection of the State.”
8. Section 186 of Children Act provides inter alia that a sole applicant aged between 25 and 60 years and more than 21 years older than the child qualifies for an adoption order.
9. The Minor herein no doubt requires parental care and guidance as well as provision of basic rights like food, shelter and clothing. I am satisfied that the Applicants have the requisite qualities and capacity to guarantee the Child’s welfare. I saw the baby in court and it appeared jolly, well groomed and nourished.
10. In the court’s view, it was important to invite the Child’s biological mother to testify and confirm if she voluntarily signed consent to adoption of the Child, exhibited in court. This was particularly advisable given that she was facing prosecution at the material period. Notwithstanding, she has been convicted of neglecting the same Child and, therefore, she may not be trusted to offer due parental care. This is more so given that there is no information as to whether the Child’s biological mother has gone through successful counselling.
11. The Applicants therefore substantially meet the requirements of the law and I shall allow them to adopt the Minor. The following orders accordingly issue;-
  - a. The Applicants are hereby authorized to adopt the subject Child.
  - b. The Registrar- General is directed to enter this Adoption Order in the Adopted Children’s Register and issue a Certificate to that effect.
  - c. That the said HWM is appointed as the Legal Guardian of the Child pursuant to Section 195 (1) of the Children Act, 2022.

**J. M. NANG’EA, JUDGE.**

**JUDGEMENT DELIVERED VIRTUALLY THIS 4<sup>TH</sup> DAY OF DECEMBER 2025 IN THE PRESENCE OF:**

The Applicants’ Advocate, Ms Ambaka.



The Applicants, Absent

Court Assistant, Justine

**J. M. NANG'EA, JUDGE.**

