

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
FAMILY DIVISION
ADOPTION CAUSE E154 OF 2025**

IN THE MATTER OF ADOPTION OF BABY SHAMIM ABDARHAMAN (MINOR)

ERIC ALARI ALARE	1ST APPLICANT
WENDY ATIENO ODIPO	2ND APPLICANT

JUDGEMENT

1. Before this Court is the Originating Summons dated 13 June 2025, Statement in support of the Application for an Adoption Order and Affidavit in support of the Application, seeking the following orders:
 - (i) That the Applicants be and are hereby authorised to adopt Baby Shamim Abdarhaman, minor, herein;
 - (ii) That upon adoption, the child be known as Shirleen Pendo Alari;
 - (iii) That the Registrar General be ordered to make the appropriate entries in the Adopted Children’s Register in respect of Shirleen Pendo Alari;
 - (iv) That the Court be pleased to appoint Grace Sande Alali as the legal guardian of Shirleen Pendo Alari upon granting adoption orders;
 - (v) That Baby Shirleen Pendo Alari be considered a Kenyan citizen;
 - (vi) That the court be pleased to make further orders it deems necessary.

The Applicants

2. The 1st Applicant is an adult male of Kenyan nationality, born in May 1985. He is currently 40 years old. He describes his occupation as a Healthcare Assistant/Nursing Assistant working with the National Health Service (NHS) in the United Kingdom. He resides in Norwich, UK but maintains a permanent residence in Buruburu, Nairobi.
3. The 2nd Applicant is an adult female of Kenyan nationality, born in August 1991. She is currently 34 years old. Like her spouse, she resides in Norwich, UK and works as a Nurse with the NHS.
4. The Applicants are husband and wife. Evidence adduced confirms that they solemnized their marriage under customary law, which was subsequently registered on 15 November 2019 at Holy Trinity Buruburu Catholic Parish. They have one biological child, who was approximately 6 months old at the time of the hearing.
5. The Applicants presented Medical Reports confirming that they are of sound physical and mental health, a prerequisite under section 186(6)(a) of the Children Act. Furthermore, Police Clearance Certificates confirm that neither Applicant has a criminal record, thus satisfying the requirements of section 186(6)(c) of the Act.

The Child

6. The child is a female born on 16 September 2012 at Huruma Nursing Home, Kayole, Nairobi County. Her birth is evidenced by Birth Certificate Entry No. 026*****14. She is currently 13 years old and is a pupil at Happyland Preparatory School in Buruburu, Grade 7.

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7. The minor is the biological daughter of Amanda Akello Odipo and Abdarhaman Gulam. The biological mother is the younger sister of the 2nd Applicant. Thus, this Application is founded on a kinship connection; the Applicants are the maternal aunt and uncle of the child.
8. The child's history, as detailed in the Social Inquiry Report and the DCS Report, reveals a background of instability regarding her biological parents. The biological father reported abandoned the mother and child at birth, indicating that he had other families and could not provide support. He has never been involved in the child's life, and his whereabouts are unknown. The biological mother has struggled with financial instability and personal circumstances, resulting in the child being raised primarily by her maternal grandmother in Jericho Estate, Nairobi.
9. Since the child was approximately 3 years old, the Applicants have stepped into the role of psychological parents, providing financial support for her education, medical needs, and general upkeep. The child views them as her parents and has expressed a strong desire to live with them, citing the challenging environment at her grandmother's home.
10. A Certificate Declaring the child free for adoption, serial number 1057, was issued by the Kenya Children's Homes Adoption Society on 19 March 2025.

The Adoption Application

12. I have considered the Summons, the evidence on record, as well as the various reports filed.
13. The duty of this Court is to analyse the material before it to determine whether the Applicants are suitable adoptive parents. The Applicants stated that they are

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committed Christians and intend to raise the child in a Christian development to ensure full spiritual development.

14. Additionally, pursuant to section 186 of the Children Act, the Applicants provided letter of consent from Grace Sande Alali 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 confirmed that she completely understands her role and what is expected of her.
15. From the material availed, I am satisfied that the Applicants are suitable adoptive parents.

Analysis and Determination

16. In deciding any matter involving a child, the Court is obligated to give priority to the best interests of the child. Section 8 of the Children Act provides:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies–

a. The best interests of the child shall be the primary consideration;

b. The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule;

2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount

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consideration to the extent that this is consistent with adopting a course of action calculated to:-

- a. Safeguard and promote the rights and welfare of the child;*
- b. Conserve and promote the welfare of the child; and*
- c. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.*

17. Adoption permanently severs the legal ties between a child and their biological parents. Therefore, consent is the cornerstone of the process, unless dispensed with by the Court under strict statutory grounds.

18. Amanda Akello Odipo, the biological mother, appeared in open court. She verified her Affidavit of Consent dated 22 January 2025. She articulated her inability to care for the child and her desire for her sister, the 2nd Applicant, to adopt the child to ensure a better future. The Court is satisfied her consent is informed, voluntary, and free of coercion, complying with Section 186(8)(a).

19. The child, being 13 years of age, falls under Section 186(8)(c), which requires the consent of a child who has attained the age of 10 years. In her letter to the Court dated 10 November 2024, she writes:

"I want to go and live with her in the UK. Because where we live with my grandmother in Nairobi, electricity goes off... there are people who drink alcohol and start shouting... making me really disturbed."

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20. During the chamber interview, she reiterated her wish to be adopted. The Court finds her mature enough to understand the implications of adoption. Her consent is valid and accepted.
21. The biological father is identified as Abdarhaman Gulam. The evidence before the Court is that he was never married to the mother, he disappeared shortly after the child's birth in 2012, he has provided no maintenance or emotional support for 13 years and his whereabouts are unknown to the mother and the extended family.
22. Section 187 provides:

(1) The Court may dispense with any consent required under section 186(8)... if the Court is satisfied that— (a) in the case of the parent or guardian of the child, the parent or guardian has abandoned, neglected, persistently failed to maintain... (c) the person whose consent is required cannot be found...
23. The facts fit squarely within the statutory grounds for dispensation. This Court relies on the precedent set in ***In re Baby A (Child) (Adoption Cause 21 of 2020) KEHC 26169*** and ***In re KK (Minor) KEHC 8019***, where the Court dispensed with the consent of parents who had abandoned their children or could not be traced, prioritizing the child's best interests over the technical requirement of consent from an absent parent.
24. Accordingly, the consent of the biological father is hereby dispensed with under Section 187(1)(a) and (c).
25. Article 53(2) of The Constitution commands that the child's best interests are paramount. Section 8 of the Act reinforces this. In evaluating the best interests in

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this case, the Court considers the several factors, including the need for stability and permanency, educational and developmental needs, preservation of identity and the best interests of the child.

26. The child is currently navigating adolescence in an environment described by the Guardian *Ad Litem* and the DCS as toxic due to the presence of alcoholic uncles and instability. Her grandmother, while loving, is 62 years old and admits to being overwhelmed. The Applicants offer a permanent, stable, two-parent household in the UK. The psychological parenthood is already established; formalizing it provides the child with legal security and belonging.
27. The Applicants have demonstrated the capacity to provide superior educational opportunities in the UK. The child has expressed a desire to become a Nurse, inspired by the 2nd Applicant. Moving to the UK aligns with her developmental aspirations.
28. This being a kinship adoption, the child retains her connection to her biological family history. She is not being adopted by strangers but by her aunt. This mitigates the trauma of identity loss often associated with adoption. The child will continue to know her biological mother as her aunt, maintaining the family fabric while legally shifting parental responsibility to those actually exercising it.
29. The Guardian *ad Litem*, in her report, highly recommends the adoption. The Director of Children Services concurs. The Court finds that the adoption is unequivocally in the best interests of the child.
30. Accordingly, I allow the Summons and make the following orders:
 - i. The Applicants, E.A.A and W.A.O, are hereby authorised to adopt the child currently identified as Baby Shamim Abdarhaman, who will henceforth be named S.P.A;
 - ii. The child is declared to be a citizen of Kenya, entitled to all the rights and privileges under The Constitution of Kenya and all other laws;

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- iii. Grace Sande Alali is appointed as the legal Guardian of the child;
- iv. The Guardian *ad Litem* is hereby discharged;
- v. The Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;

DATED AND DELIVERED AT NAIROBI THIS 16 DAY OF JANUARY 2026

**HELENE R. NAMISI
JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

For Applicants: Ms Gicheha

Court Assistant: Lucy Mwangi