



**In re Adoption of Baby JA (Adoption Cause E235 of 2025)
[2026] KEHC 81 (KLR) (Family) (16 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 81 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E235 OF 2025

H NAMISI, J

JANUARY 16, 2026

N THE MATTER OF ADOPTION OF BABY JA

IN THE MATTER OF

KKM 1ST APPLICANT

PMA 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons 25 August 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 authorised to adopt Baby Jace Alexander, a minor who is to be known as JBK and the Registrar General be directed to enter this adoption into the Register of Adoptions;
 - ii. That LLK be appointed as the legal guardian of the child;
 - iii. That the child be presumed to have been born in Kenya.

The Applicants

2. The 1st Applicant is a Kenyan male adult of sound mind, born in 1966. He is a career civil servant, currently serving as an Election Officer with the Independent Electoral and Boundaries Commission, a position he has held with stability, evidencing a steady income.
3. The 2nd Applicant is a female adult of sound mind, born in 1972. She is a professional educator, employed as an Early Childhood Development Education Teacher at Jabali School in Nairobi.



4. The Applicants are a married couple, having solemnized their union on 12 August 2000 at Madaraka P.A.G. Church, Nairobi. A copy of their Certificate of Marriage is provided. They have been married for over 25 years, a duration that speaks to the stability and permanence of their family unit. The Applicants are blessed with one biological child, aged 28 years. The Applicants averred that despite their desire to have more children, they have been unable to do so due to medical reasons beyond their control, which motivated their decision to pursue adoption as a means to expand their family and offer parental care to a deserving child.
5. The Applicants reside at the [Name Withheld], Dagoretti Corner, Nairobi. The home assessment reports filed by the Guardian ad litem and the Director of Children Services describe the residence as a homely environment, secure, well-furnished, and suitable for the upbringing of a minor. The Applicants describe themselves as committed Christians who fellowship at Christ is the Answer Ministries (CITAM) Woodley.

The Child

6. The child, male, is presumed to have been born on 28 April 2021 at Shibwe Health Centre in Kakamega County. He is currently 4 years old.
7. The child was born to one FM, who was a minor aged 14 years at the time of the birth. The pregnancy resulted from an act of defilement committed by a relative of the mother, identified in the records as SB. The incident was recorded under Police OB Number 28/04/05/2021 at Embakasi Police Station. Following the birth, the biological mother and her father (the child's grandfather), JMM, presented themselves to the area administration—specifically the Chief of Shivagala Sub-location in Kakamega. They reported that the child was the product of an incestuous relationship. The family invoked Luhya customary beliefs, asserting that such a child is considered taboo or a bad omen and cannot be raised within the clan or community without inviting calamity. Consequently, the biological mother and grandfather formally abandoned the infant at the Chief's office, relinquishing all parental rights and duties.
8. The administrative and police machinery acted swiftly to secure the child. The abandonment was reported to the Kakamega Police Station, and the child was subsequently rescued and placed under the care of PEFA Rehema Children's Home in Bukura. This placement was regularized by a Committal Order issued by the Kakamega Law Courts in Care and Protection Case No. 9 of 2021, dated 14 June 2021.
9. The child remained in the institutional care of PEFA Rehema Home until 15 December 2023, when he was placed in the foster care of the Applicants for the mandatory statutory bonding period required under the *Children Act*.
10. The child was formally declared free for adoption by the KKPI Adoption Society on 29 November 2023, vide Certificate Number 0990.

The Adoption Application

11. I have considered the Summons, the evidence on record, as well as the various reports filed.
12. 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 committed Christians and intend to raise the child in a Christian development to ensure full spiritual development.



13. The DCS Report dated 30 October 2025 confirms that the Applicants have been assessed and found to be socially, psychologically and financially stable. The home environment is safe and conducive. The child has bonded well with the Applicants during the fostering period. The Applicants have no criminal record, as evidenced by the Police Clearance Certificates.
14. The Guardian ad litem, JML, conducted a thorough investigating, including a home visit. Her report corroborates the DCS findings. She observed a strong bond between the child and the Applicants, noting the child appeared healthy, cheerful, and comfortable. She highlighted that the Applicants have already enrolled the child in school (Jabali Junior), demonstrating their commitment to his educational development. Her recommendation is unequivocal: the adoption is in the child's best interests.
15. KKPI Adoption Society presented a report dated 27 October 2025. It confirms that the Applicants were approved by the Society's case committee and that the placement has been monitored successfully.

Analysis & Determination

16. Adoption fundamentally alters the legal status of a child, extinguishing the rights of the biological parents. Therefore, consent is a cornerstone of the process. Section 186(8) requires the consent of the parents or guardian, and the child, if over 10 years old. In this case, the biological mother, Jane Soila, abandoned the child. The biological father is unknown.
17. Section 187(1) provides:

The Court may dispense with any consent required under section 186... 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 or persistently ill-treated the child...
18. The biological mother, FM executed an Affidavit of Consent on 13 August 2021. At the time, she was a minor, 17 years old. Under Section 187(9) of the Act, a mother's consent is admissible if the child is at least 6 weeks old. The child was over 3 months old at the time of consent. While the mother was a minor, the consent was witnessed by her father (the child's grandfather), providing the necessary adult oversight. The Court is satisfied that the mother, facing the trauma of incest and cultural ostracization, voluntarily relinquished her rights.
19. The father is identified as a relative who defiled the mother. He is a fugitive from the law. Section 187(1) (a) empowers this Court to dispense with the consent of a parent who has abandoned, neglected, or persistently ill-treated the child. Given the criminal nature of the conception and the father's absence, his consent is hereby dispensed with.
20. The core of this case lies in the cultural rejection of the child. The biological family explicitly abandoned the child because, under their customs, a child of incest is taboo and cannot be raised within the community. Article 2(4) of *The Constitution* renders void any customary law that is inconsistent with the Bill of Rights. The categorization of a child as taboo violates Article 53(1)(d), which protects children from harmful cultural practices.
21. The Applicants seek an order presuming the child to be a Kenyan citizen. While the biological mother is known and is Kenyan, conferring citizenship by birth under Article 14(1)), the utter abandonment and the need to secure the child's identity often necessitate a specific order. The Court will grant this prayer to ensure the child's documentation is seamless.



22. 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;
 - a. 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 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;
 - a. Conserve and promote the welfare of the child; and
 - a. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.
23. I have considered the Reports filed by the undated Adoption Agency, the Guardian ad Litem, and the Director of Children Services, all of which were positive and recommended the adoption. Bearing in mind that this child had been abandoned and faced an unknown future, it is my view that the adoption serves the best interests of the child. Not only will the adoption give the child a sense of belonging, but it will also give him the opportunity to grow up like every other child.
24. Accordingly, I allow the Summons and make the following orders:
- i. The Applicants, K.K.M and P.M.A, are hereby authorised to adopt the child currently identified as Baby Jace Alexander, who will henceforth be named J.B.K.;
 - 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;
 - iii. LLK 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. Wairimu

Applicants present

Court Assistant: Lucy Mwangi

