



**In re EA (Baby) (Adoption Cause E157 of 2025)
[2026] KEHC 95 (KLR) (Family) (16 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 95 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E157 OF 2025
H NAMISI, J
JANUARY 16, 2026**

IN THE MATTER OF

**PMM 1ST APPLICANT
KEM 2ND APPLICANT**

JUDGMENT

1. Before this Court is the Originating Summons 7 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, PMM and KEM, be allowed to adopt the child currently identified as Baby EA;
 - ii. That henceforth, the child be renamed BRM;
 - iii. That the child's date and place of birth be declared to be 22 June 2024 at Kitengela Sub country Hospital in Kajiado County;
 - iv. That the child be presumed to be a Kenyan citizen by birth, and consequently be entitled to all the rights and benefits in respect thereof;
 - v. That Prof BMM and Dr. PGM be appointed as legal guardians of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations;
 - vi. That the Registrar General be directed to make the appropriate entries in the Adopted Children's Register and issue a Certificate to that effect;
 - vii. That the relevant department under the Civil Registration Services be directed to issue a post-adoption Certificate of Birth in respect of the child;



- viii. That the Director of Immigration Services be directed to issue a passport to the child;
- ix. That the Guardian ad litem be discharged;
- x. That this Court do issue such further orders as are in the interest of justice.

The Applicants

2. The Applicants present themselves as a stable, married couple with a demonstrated capacity for parenthood. The 1st Applicant is a male adult, born in 1975. His background, as detailed in the report by the Director of Children Services (DCS), reveals a stable upbringing in a family of educators. The 1st Applicant is the second born in a family of 5 siblings, maintaining close familial ties that form a crucial support network for this proposed adoption. Professionally, the 1st Applicant is a seasoned businessman. The financial evidence before the Court corroborates his Affidavit, indicating a robust monthly income.
3. The 2nd Applicant is an adult female of Kenyan nationality, born in 1983. She is a highly qualified professional, who is currently employed as a Consultant for the World Bank.
4. The Applicants solemnized their marriage in December 2017 at St. Austin's Catholic Church. This is evidenced by the Certificate of Marriage. Their union was blessed with one biological child, born in 2018. The DCS Report characterizes their marriage as good though with its ups and downs, a candid admission that lends credibility to their testimony regarding the stability of their home.

The Child

5. The history of the child is a harrowing account of abandonment, mitigated only by the intervention of the state and the eventual placement with the Applicants.
6. The records from Kitengela Sub-County Hospital indicate that the child was born on 22 June 2024 to a mother identified as TW. Tragically, on 23 June 2024, merely a day after giving birth, the mother absconded from the hospital's Post Natal Ward, leaving the neonate behind. The abandonment was reported to the Kitengela Police Station, where it was recorded under OB Number XXX/6/2024. Simultaneously, the matter was flagged to the Kitengela Sub-County Children's Office.
7. On 26 June 2024, pending investigations and tracing efforts, the child was admitted to Mahali pa Maisha Infant Rescue Centre for immediate care and protection. To regularize this custody, a Committal Order was issued by the Children's Court at Kajiado on 5 July 2024 in Protection & Care Case No. E020 of 2024, effectively placing the child under the statutory supervision of the institution. Extensive efforts were made to trace the biological mother or any relatives. The Police conducted investigations but yielded no results. A final police letter issued on 8 January 2025 confirmed that no person had come forward to claim the child despite the passage of over six months. Similarly, the administration of Mahali Pa Maisha confirmed that during the child's stay, no relative had made contact.
8. Faced with the reality of permanent abandonment, and in strict adherence to Section 187 of the [*Children Act*](#), the Case Committee of Buckner Kenya Adoption Services convened on 14 January 2025. Consequently, the child was declared free for adoption vide Certificate Serial No. 0936. On 1 February 2025, the child was formally placed under the care and control of the Applicants for the mandatory three-month fostering period required by law prior to the filing of an adoption application.



The Adoption Application

9. I have considered the Summons, the evidence on record, as well as the various reports filed.
10. 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.
11. The DCS Report dated 16 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.
12. The Guardian ad litem, Dorine Achieng Osiro, 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 the sibling bond between the child herein and the Applicants' biological son, noting that the child excitingly awaits his return from school. Her recommendation is unequivocal: the adoption is in the child's best interests.
13. Buckner Kenya Adoption Society presented a report dated 4 November 2025. It confirms that the Applicants were approved by the Society's case committee and that the placement has been monitored successfully.

Analysis & Determination

14. 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 abandoned the child soon after birth. The biological father is unknown.
15. 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...”
16. The biological mother's act of absconding from the hospital is a definitive act of abandonment. It signals a permanent intention to relinquish parental rights and duties. To require consent in this scenario would be an exercise in futility and a disservice to the child.
17. Accordingly, I hereby invoke the powers conferred by Section 187 of the Act, and dispense with the consent of the biological mother and father on the grounds of abandonment.
18. 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 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.
19. I have considered the Reports filed by the 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 her the opportunity to grow up like every other child.
20. Accordingly, I allow the Summons and make the following orders:
 - i. The Applicants, P.M.M. and K.E.M, are hereby authorised to adopt the child currently identified as Baby EA, who will henceforth be named B.R.M.;
 - 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. Prof BMM and Dr. PGM are appointed as the legal Guardians 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;
 - vi. The Department of Civil Registration Services do issue a post-adoption Certificate of Birth in respect of the child;
 - vii. The Directorate of Immigration Services do issue a Kenyan passport to the child.

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 Kimenyi

Applicants present

Court Assistant: Lucy Mwangi

