



In re Abandoned Baby Boy aka B aka RJ (Child) (Adoption Cause E015 of 2025) [2026] KEHC 167 (KLR) (14 January 2026) (Judgment)

Neutral citation: [2026] KEHC 167 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
ADOPTION CAUSE E015 OF 2025**

G MUTAI, J

JANUARY 14, 2026

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

**IN THE MATTER OF AN APPLICATION FOR ORDERS OF ADOPTION OF ABANDONED
BABY BOY AKA B AKA RJ BY MR NILM AND ASI(THE JOINT APPLICANTS)**

BETWEEN

NLM 1ST APPLICANT

ASI 2ND APPLICANT

AND

LITTLE ANGELS NETWORK RESPONDENT

JUDGMENT

Introduction

1. The joint applicants are married. They got married on 15th March 2008 at Mombasa Friends Church. NLM is a pastor, while ASI is a clerk. The joint applicants have no children of their own. They, however, live with one nephew called Shammah Lugadiru, a 15-year-old boy who is presently in Grade 10 at Sparki Junior School.
2. The joint applicants desire to adopt the Abandoned Baby Boy, aka B, aka RJ . The child has been in their custody since 18th October 2023. If the adoption is successful, they propose to call him RJ .
3. The Abandoned Baby Boy, aka B, aka RJ , was found abandoned at 6 am on 21st May 2021, together with his younger brother at Gichagi in Kangemi by a boda boda rider. The matter was reported at Kangemi Police Station vide OB NO 06/27/05/2021. The child was later taken to the Children’s Officer, Westland, and was thereafter placed in the custody of Nest Children’s Home. The identity of his parents has not been established to date.



The Originating Summons

4. Desiring to adopt the child, the joint applicants filed the instant originating summons. The same is dated 25th August 2025. The summons seeks the following orders:-
 1. Pursuant to Article 14(4) of *the Constitution* of Kenya 2010 and Part II section (1) of the *Children Act*, 2022, this honourable court be pleased to declare the child, B, a Kenyan citizen by birth;
 2. Pursuant to the provisions of section 187 of the *Children Act*, 2022, this honourable court be pleased to dispense with the requirements of the consent to the adoption as required by the provisions of section 16 of the *Children Act*, 2022;
 3. That the Applicants NLM and ASI be authorized to adopt B;
 4. Upon the making of the adoption order, the child to be known as RJI;
 5. Upon the making of the adoption order, RZI and Gertrude Muhonja Ligale be appointed as the Legal Guardians of the child as provided for by the provisions of section 188 of the *Children Act*, 2022;
 6. Upon making of the adoption order, the Registrar General do make an entry regarding the adoption and the estimated date of birth of the child as being 27th May 2017 in the Adopted Children Register as provided for by section 201 of the *Children Act*, 2022; and
 7. That the costs of this application be provided for.
5. The joint applicants attached to the application copies of the relevant documents, including their national identity cards, assessment reports, certificate declaring the child free for adoption, photographs, and certificate of birth. The Court has perused the same.

Appointment of a guardian-ad-litem

6. This Court appointed MMM as the guardian ad litem in respect of these adoption proceedings on 12th November 2025. The Court ordered her to assess the joint applicants and to prepare and file the requisite report. A similar order was made to the Director of Children's Services, Mombasa. The matter was slated for hearing on 17th December 2025.
7. On 17th December 2025, this matter was heard 6 witnesses testified. I shall give a precis of their testimonies below.

Evidence adduced in Court

8. The first witness was Ms Njeri Mwangi of the Directorate of Children's Services, Mombasa. She testified that, upon being served with a Court order, her office conducted a social enquiry. They found that the child had bonded well with the prospective adoptive parents. Ms Mwangi recommended the adoption.
9. Ms Elizabeth Nasiche Ekumba was the second witness. Ms Ekumba works with the Little Angels Network. She testified that they were responsible for declaring the child as being free for adoption and that they also assessed the suitability of the proposed adoptive parents. She testified that the certificate declaring the child free for adoption had serial number 002384. Ms Ekumba testified that her organization recommended the adoption.



10. The guardian ad litem, Ms MMM , testified as the third witness. She is a pharmaceutical technologist. The female applicant is her friend. She has known the joint applicants for over 5 years. He testified that she visited the joint applicants and established that they had bonded well with the child. She further testified that the joint applicants are able to provide financially and emotionally for the child.
11. The first applicant, Mr NLM , was the fourth witness. He is a pastor with the Friend Church and is based in Mombasa. It was his testimony that they (he and the 2nd applicant) don't have children of their own. He is aware that adoption is permanent. He expressed his readiness to adopt the child.
12. Ms ASI , the co-applicant, also testified as the fifth witness. She stated that she, too, knew what adoption entailed and that she was prepared. She confirmed that the couple does not have children of their own and they wish to adopt.
13. The last witness was RZI . Mr RZI is the brother of ASI , and thus the brother-in-law of Mr NLM . Mr RZI is proposed as the legal guardian. He testified that he knew what effect being made a legal guardian has. He testified that he was ready to be appointed as a legal guardian.
14. I have considered the application, supporting documents, and the various witnesses' evidence. The issues that emerge for determination are whether the child is available for adoption, if the Applicant is fit to adopt the baby, and, most importantly, whether the adoption is in the child's best interests.
15. I have already set out the circumstances under which Abandoned Baby Boy, aka B, aka RJ , was found. The child was abandoned at Gichagi in Kangemi by an unknown person. He and his younger brother were found by a boda boda rider on a cold and wet morning. Attempts to trace his parents have been unsuccessful. Nobody has come forward to claim the child despite efforts made. Given the period that has elapsed since the said occurrence, it is most unlikely that the biological parents of the child will ever turn up. Therefore, the need for consent pursuant to sections 186(8) and 187 of the [Children Act, 2022](#), is dispensed with. I am guided by the case of *In re HN (Baby)* [2020] eKLR, where the court stated that: -

“As there is nobody laying claim over the baby, the requirement for consent is hereby dispensed with pursuant to Section 159(1) of the Children’s Act. In view of the above consideration, it is my finding that the child is available and suitable for adoption.”
16. Regarding the baby’s nationality, the evidence adduced shows that he was found abandoned. At the time of his rescue, he was less than 8 years old. Article 14(4) of [the Constitution](#) of Kenya, 2010 states that a child under eight years of age whose nationality and parents are unknown is presumed to be a Kenyan citizen by birth. Given this provision, the child herein is presumed to be a Kenyan citizen by birth.
17. Regarding age, the child is above six weeks and below 18 years, which provision falls within the age bracket of any adoptive baby under Section 184 (b) of the [Children Act, 2022](#). Further, Section 185(1) of the said Act states that any child who is a resident of Kenya, whether born in Kenya or not, is eligible for adoption. I do not doubt that the child is fit for adoption.
18. Concerning the joint applicants’ suitability, they are Kenyan citizens aged 56 and 55 years old, at the time of this judgment, which places them within the age bracket of not less than 25 years nor more than 65 years for an adoptive parent in compliance with Section 186(2) of the [Children Act, 2022](#). From the records I have seen, the joint applicants have the means to care for the child they are adopting. They both do not have criminal record. Since the placement of the child in their custody, the child has fully



bonded with them. The joint applicants understand the consequences of adoption and know that it is permanent once an adoption order is made.

19. Consequently, I do not doubt that she meets the requirements to adopt the baby. I am guided by the case of *In re B (Baby)* [2018] eKLR, where the court stated: -

“I am of the considered view that, weighing all factors and the evidence placed before me, the applicants are of sufficient ability to bring up the child and to furnish her with appropriate support and maintenance within their resource base available to them.”

20. On the question of whether the adoption is in the best interests of the baby, I am guided by Article 53(2) of *the Constitution* of Kenya, 2010 and Section 8(1) and (2) of the *Children Act*, 2022 which underscores the best interests of a child as the primary consideration before making any decision concerning a baby.

21. Further, the court in the case of *In re MA (Baby)* [2021] eKLR stated:-

“This court, in the case of *In re B (Baby)* [2018] eKLR, held that the purpose of Kenya’s Constitution and Children’s Act is to protect and promote the welfare of Children by providing them with stable family units. The fundamental concern, therefore, in every adoption cause is the best interest of that very child.”

22. The child herein was abandoned at a young age. He therefore needs necessities such as food, shelter, education, and clothing. He has fully integrated with the joint applicants. It is obviously in the child’s best interests that this adoption application is allowed. I am guided by the case of *In re IK (Child)* [2020] eKLR, where the court stated that: -

“She needs parental care to grow up as a normal child with emotional and physical protection, which the applicants have stepped in to offer. In that regard, the applicants meet the legal requirements for adoption. Further, all reports recommended adoption for the benefit and well-being of the child. As *the Constitution* and the law state, in all matters concerning a child, the child’s best interests are paramount.”

23. In my view, the originating summons has merit. consequently, I allow the same and issue the following consequential orders: -

- a. The Abandoned Baby Boy, aka B, aka RJ , is hereby declared a Kenyan citizen by birth;
- b. The consent of the biological parents or guardians of Abandoned Baby Boy, aka B, aka RJ , is hereby dispensed with;
- c. The joint applicants are hereby authorized to adopt Abandoned Baby Boy, aka B, aka RJ , who shall henceforth be known as RJJL;
- d. Mr RZI is hereby appointed as the legal guardian of the minor and entrusted with the responsibility of taking care of RJJL in the event that the joint applicants die or are otherwise permanently unable to take care of him before he attains the age of majority;
- e. The Registrar General is hereby ordered to make an entry recording the adoption order herein and the date of birth of RJJL as being 27th May 2017 in the Adopted Children Register as provided for by section 201 of the *Children Act*, 2022; and
- f. The guardian ad litem, Ms MMM , is hereby discharged.



24. I make no orders regarding costs as this is a non-contentious adoption matter.

25. It is so ordered.

DATED AND SIGNED THIS MOMBASA, THIS 14TH DAY OF JANUARY 2026. DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS.

GREGORY MUTAI

JUDGE

In the presence of: -

Mr NLM and ASI (pro se litigants); and

Esther - Court Assistant.

