



**In re TE (Adoption Cause E231 of 2025)
[2026] KEHC 671 (KLR) (Family) (30 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 671 (KLR)

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

FAMILY

ADOPTION CAUSE E231 OF 2025

H NAMISI, J

JANUARY 30, 2026

IN THE MATTER OF ADOPTION OF BABY TE

IN THE MATTER OF

GKOA 1ST APPLICANT

CHAK 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons 11 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 GKOA and CHAK herein be authorised to adopt TE;
 - ii. That the consent of the biological parents of TE be dispensed with as the child was abandoned shortly after birth;
 - iii. That upon making of the adoption orders the said child be known as TKA;
 - iv. That the Court be pleased to appoint BEAW as the legal guardian to TKA upon granting of the adoption order;
 - v. That the Registrar General do make the appropriate entry of TKA in the Adopted Children’s Register;
 - vi. That the child TKA be presumed to be a Kenyan citizen born in Kenya.



The Applicants

2. The 1st Applicant is a male Kenyan citizen born in 1973. He is currently 52 years old. He is a qualified accountant, holding a Bachelor of Arts in Economics and Business Studies and a Master of Business Administration (MBA). He is currently employed by Catholic Relief Services. The 2nd Applicant is a female Kenyan citizen born in 1976. She is currently 49 years old. She is a banker, holding a Bachelor of Commerce degree. She is currently employed as a Customer Service Specialist at Absa Bank Kenya.
3. The Applicants have been legally married since 25 November 2006, a union solemnized at the Africa Inland Church, Kisumu. They have enjoyed a stable marital life for over 18 years. They have one biological child born in 2007. The Court notes her enthusiastic consent to this adoption.
4. The combined household income of the Applicants is substantial. Their total household income, approximately KES 378,000/= per month, is sufficient to cater to the needs of the child. They reside in their own three-bedroom apartment in NHC Langata Estate and possess other assets, including land and a vehicle.

The Child

5. The child enters the legal system through a trajectory marked by the tragedy of abandonment. The facts regarding his discovery are detailed in the Affidavit of the Applicants and supported by the Police records annexed thereto.
6. On the morning of 10 April 2024, a Good Samaritan discovered a nylon bag at [particulars withheld] Phase Two area in Athi River Township. Upon inspection, the bag was found to contain a newborn male infant. The child was naked, save for the nylon wrapping, and was exposed to the elements.
7. The condition of the child at the time of discovery was precarious. The admission records from Mahali Pa Maisha Infant Rescue Centre indicate that the child had sun exposure burns on the right side of his face, neck, and chest. Crucially, the umbilical cord was still attached and had been tied with a string, a clear indication of an unassisted or non-medical delivery followed by immediate abandonment. A Birth Certificate was issued for the child recording his date of birth as 10 April 2024 and his place of birth as Athi River Level 4, Mavoko. The names of the parents are conspicuously recorded as "Unknown".
8. The matter was promptly reported to the Athi River Police Station and recorded vide OB Number XXXX/2024. The Police issued a letter on the same day requesting safe custody for the child at Mahali Pa Maisha Infant Rescue Centre pending investigations. Despite the immediate and subsequent investigations by the Directorate of Criminal Investigations and the publication of the child's discovery, no person has come forward to claim the child. A final Police letter dated 14 October 2024 confirmed that all efforts to trace the parents or relatives had been futile. Consequently, the child was declared free for adoption by the Change Trust Adoption Society on 23 October 2024.
9. The child was placed in the foster care of the Applicants on 26 March 2025. This placement was formalized through a Care and Placement Agreement signed between the Applicants and the Rescue Center.
10. The Guardian ad Litem, MGM, visited the home on multiple occasions. Her report dated 6 October 2025 describes a warm and comfortable home where the child is jovial and active. She observed a strong bond between the parents and the child, noting that the Applicants treat the child with immense love and affection.



11. The Department of Children Services (DCS) conducted its own inquiry. The report dated 7 October 2025, corroborates the Guardian ad litem's findings. The DCS report notes that the home is clean, well-lit, and conducive to the child's development. The child has his own bed and an assortment of toys. The DCS unequivocally recommends the adoption, stating it is in the child's best interest

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 committed Christians and intend to raise the child in a Christian development to ensure full spiritual development.
14. The DCS Report 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.
15. Change Trust Adoption Society presented a report dated 19 February 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, JS, 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 child was found in a nylon bag, naked, with an unhealed cord. This is the epitome of abandonment at birth. The mother's actions—leaving a vulnerable newborn in a public space—evinced a clear intention to permanently renounce parental responsibility. Despite due diligence by the Police, no one has claimed the child.
19. Therefore, pursuant to Section 187 of the *Children Act*, I hereby dispense with the consent of the biological parents of the child.
20. A significant aspect of this application is the prayer for the child to be presumed a Kenyan citizen. Children found abandoned with unknown parents face the risk of statelessness, a violation of their human rights.
21. Article 14(4) of *the Constitution* addresses this directly:

A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.



22. The child herein, though found abandoned, was issued with a Certificate of Birth. The child is, therefore, for all intents and purposes, a citizen of Kenya by birth.
23. 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.
24. 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.
25. Accordingly, I allow the Summons and make the following orders:
- i. The Applicants, G.K.O.A and C.H.A.K, are hereby authorised to adopt the child currently identified as Baby TE, who will henceforth be named T.K.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;
 - iii. BEAW 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 30 DAY OF JANUARY 2026

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Applicants: present in person

Court Assistant: Lucy Mwangi.

