



**In re Adoption of Baby S (Adoption Cause E020 of 2025)
[2026] KEHC 496 (KLR) (28 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 496 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
ADOPTION CAUSE E020 OF 2025
RN NYAKUNDI, J
JANUARY 28, 2026
IN THE MATTER OF AN APPLICATION FOR ADOPTING BY JKC AND LJ AND
FOR ADOPTION AND CUSTODY OF BABY S**

IN THE MATTER OF

JKC 1ST APPLICANT

LJ 2ND APPLICANT

RULING

1. What is pending before this Honourable Court is Originating Summons expressed to be brought under part XIV and Section 183(1)(2), 185(4)(B) and 188 of the Children’s Act, Article 14(4) of *the constitution* of Kenya and Section 3(A) of the Civil Procedure dated 15th day of December 2025 seeking where the Applicant is seeking the following orders: -
 - a. That JKC and LJ of Kenya National Identity Card Number 9870359 and 11604530 respectively who are Kenyan Citizens, be authorized to adopt the child Baby S born on the 21st day of August 2010.
 - b. That upon adoption, the child be known as SSL and be declared to be a Kenyan Citizen entitled to all the rights and benefits under *the constitution* of Kenya and all applicable laws.
 - c. That DK and EK of Kenya National Identity Numbers 9156058 and 11730326 respectively be appointed as legal guardians’ ad litem of Baby Seth pending hearing and determination of this application.
 - d. That, the Register General is directed to enter this adoption into the Register of Adoptions and subsequent Birth Certificates to be issued by the Registrar of Births and Deaths.



2. The Summons is based on the following grounds on the face of it among others and on the Annexed Supporting Affidavit as follows: -
- a. That the applicants are desirous of adopting baby Seth who was an abandoned baby.
 - b. That baby S was rescued by a Good Samaritan having been abandoned near Kapsoya Catholic Church on the 17th Day of September 2010.
 - c. That Baby S was taken to Kapsoya police station by the Good Samaritan who issued Occurrence book entry No. 9/17/9/2010.
 - d. That Baby S was then taken to Moi Teaching and Referral Hospital for medical attention vide In-patient No.9547290354.
 - e. That Baby S was discharged from the Moi Teaching and Referral Hospital and taken to Wareng District Children's Office which then secured a vacancy at Neema Children's Home.
 - f. That Baby S was admitted to Neema Children's Home on 21st September 2010.
 - g. That, the Magistrate's court having been satisfied that Baby Seth was in need of care& Protection, vide order dated 1st October 2010 committed the child into the legal custody of Neema Children's Home.
 - h. That the committal was granted by the Chief Magistrate's Court at Eldoret vide Protection and Care case number 299/2010 for a period of three years. The child was later confined at Neema Children's Home on 29th November 2018.
 - i. That the Case Committee of Little Angels Network was satisfied that Baby SKK is available for adoption in a meeting on 31st January 2019.
 - j. That a certificate No.002061 was issued to declare Baby S free for adoption.
 - k. That the applicants approached the Little Angels Network on 21st November 2022 as prospective Adoptive Parents.
 - l. That, the Little Angels Network Case Committee sitting on 12th April 2023 considered the applicants herein had met all the legal and social parameters for adoption.
 - m. That, the applicants herein have undergone the post-application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports, and a police clearance certificate.
 - n. That, the applicants are able and willing to give Baby S a stable loving home environment.
3. As part of the inquiry on the suitability and eligibility test, it is mandatory that the Director of Children services undertake a social investigation on the various parameters to establish whether the applicants' application meets the threshold of being adoptive parents of the minor. In the instance case the content and text of the inquiry report made the following key observations:

Home Particulars

County: Uasin Gishu

Sub County: Kesses

Village: Annex



Guardians Particulars

Mother: LJ

Phone No: 07XXXXXXXX77

Father: JKC

Phone: 07XXXXXXXX93

Neema Children's Home Social Worker Particulars

Name: AT

Phone No: 07XXXXXXXX41

The Child's Particulars

Name: SS

Age: 15 years

Interview With At (neema Social Worker).

SS was approximately 1 month old when he was abandoned. He was said to have been found abandoned by a good Samaritan near Kapsoya Catholic Church on 17/9/2010 at around 1800hrs. The good Samaritan picked him up and reported the matter to Kapsoya Police Station and she was issued with an OB NO.9/17/9/2010. Both the good Samaritan and the minor were later accompanied by two police officers, Mr. Aden Ali force No.70802 and Mr. Njeru force No.6740 to Moi Teaching and Referral Hospital where he was placed temporarily as police carried their investigation. The investigation did not yield results and the minor was found HIV positive and needed special care and proper custody, hence he was to be committed to Neema Children's Home. Then the Chief Magistrate committed him at Neema Children's Home vide Protection and Care case number 299/2010 for a period of 3 years. The child was later confined at Neema Children's Home on 29/11/2018. The Case Committee of Little Angles Network was satisfied that baby SS was available for adoption in a meeting held on 31/1/2019. A certificate No.002061 was issued to declare baby SS free for adoption. The applicants approached the Little Angels Network on 21/11/2022 as prospective adoptive parents. The Little Angles Network Case Committee had a sitting 12/4/2023 and considered the applicants had met all legal and social parameters for adoption. Hence the Case Committee approved the applicants for placement of a child of their preferred age and sex.

Interview With J And L (applicants)

J and L are applicants who want to adopt baby SS. They have been married for more than 23 years now but have never been blessed with a child of their own. They have been taking care of their relative's children from a tender age who have completed their high school and re-integrated with their parents after school. Since then, they have felt the need to have a child of their own to keep them company and also be their child permanently. They would like to adopt a male child of at least 10 years old who shall be of their Own. They have shared the adoption plan with their close extended family members, members of the clergy and a few friends and they have full support from them. The couple has good recommendations from their references and a medical doctor who conducted their medical evaluations. J and L would also like to be parents to the minor and change and be able to change his life for the better. Since they have experienced parenting having raised their two nieces it won't be a challenge taking care of the adopted child. J And L Plea They both plea with this honorary



court that they be allowed to adopt SS as their own child. This is for the betterment of the minor's welfare and needs, also to have their dream of becoming parents to come through.

Findings

J is a soft-spoken person while Leah is an outgoing person. They are mature and they have been married for more than 23 years. They have support from their parents, siblings, their Clergy and a few friends whom they shared their interest to adopt a child. They have experience in parenting having raised their two nieces and they believe. They are both Christians and they spend all their Saturdays in Church. Both grew Adventist Church before they married. They both don't have any criminal record. Recommendations Children's Act 2022 Part Xiv-adoption 83 Power to make adoption orders;

- i. Subject to this Act, the High Court may, on an application made in the prescribed form, make an order, in this Act referred to as "adoption order", authorizing an applicant to adopt a child.
- ii. All proceedings under this Part shall be heard and determined in chambers, and the identity of the child and the applicants shall be kept confidential.
- iii. In this Act, adoption means local, kinship and foreign adoption.
- iv. For the purposes of this Part-
 - a. "kinship adoption" has the meaning assigned to it in section 2;
 - b. "local adoption" means an adoption in relation to which-
 - i. The child is resident in Kenya; and
 - ii. The adopting parent or parents are Kenyan nationals' resident in Kenya; and
 - c. "foreign adoption" means an adoption in relation to which-
 - i. The adopting parent or parents are Kenyan nationals with dual citizenship
 - ii. The adopting parent or parents are foreign nationals whether or not resident in Kenya;
 - iii. The adopting parent or parents are not Kenyan nationals but are biologically related to the child: or
 - iv. The adopting parent or parents were once Kenyan nationals but have lost their nationality by operation of the law of the host country to which the prospective parent or parents

The Children's Department after assessing the situation, it recommends;
That the applicants be allowed to adopt a child of their choice.

Decision

4. It is from the above evidential material and social inquiry report I shall consider whether the applicants are fit to adopt the child. First and foremost, the applicable law on adoption in Kenya is now well settled based in our constitution in Article 53 on Children's Rights and the doctrine of the best interests



being paramount importance of every decision made by courts or tribunals which has far reaching implications on the right of the child. The adoption process is well captured under the Children's Act as herein under provisions demonstrated in:Section 184(1) of the Children's Act which provides as follows:-

No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free or adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf.

5. Thus for an adoption order to ensue the following ought to be taken into consideration: -
 - a. A child must be at least six (6) weeks old and free for adoption;
 - b. The child concerned must have been in the continuous care and control of the applicant within Kenya for a period of three (3) consecutive months preceding the filing of the application; and
 - c. Both the child and the applicant have been evaluated and assessed by a registered adoption society in Kenya.
6. Part XIV of the Children's Act provides as follows:-
 - a. The applicant is above twenty-five years of age and below sixty-five years of age;
 - b. The applicant is a relative of the child;
 - c. The child has been declared free for adoption;
 - d. That all the reports and evaluations conducted indicate that it is in the best interests of the child that the applicant adopts the child as demonstrated by the fact that they are family, and that the applicant has been educating and providing for the child since birth
 - e. The child has given her consent to being adopted by the applicant;
 - f. The biological parents have given their consent.
7. Similarly section 186 of the *Children Act*, 2022 provides that the Court may make an adoption order on application by-
 1.
 - (a) Sole applicant; or
 - (b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. The applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
8. It is also a constitutional imperative under Article 53 (2) and Section 4(3) of the Children's Act that courts are ordained actual by law to treat the best interests of the child as the first paramount consideration; The best interests of the child herein will be served where the court adopts a course of action that safeguards and promotes his rights and welfare. The court will ensure that he has shelter, food, clothing, education and medical care. His best interests will be served where he has parental



guidance, and where such guidance is provided by, as much as it is possible, both parents. The child is entitled to be allowed a suitable, conducive and loving environment in which to grow and develop.

9. The law requires that a court must exercise its discretion in adoption matters by giving due regard to the best interests of the child as the paramount consideration when making any order relating to a child. The Children’s Act is explicit on the considerations to be met, which include, but are not limited to, the wishes of the child, taking into account his or her age and level of understanding; the child’s physical, emotional and educational needs; the likely effect of any change in the child’s circumstances; the child’s sex, age, background, and any other relevant circumstances; any harm that the child has suffered or is at risk of suffering and where relevant, the capacity of the child’s parents, guardian or any other person involved in the care of the child to meet the child’s needs.
10. The applicants in this adoption proceeding have sworn affidavits affirming that they have assumed parental responsibility for the child’s maintenance and educational needs for some time now. This is corroborated by the report of the Children’s Officer, who is mandated to ensure that the child’s welfare and best interests are taken into account. In the inquiry report dated 24th April 2025, the two prospective adoptive parents, who approached this court as husband and wife, were emphatic that they would do everything necessary to invest in the child’s best interests so as to enable him to fully realize his rights and fundamental freedoms upon the issuance of an adoption order, which would confer upon them the legal authority to exercise parental responsibility over the child. From this background, the Children’s Officer strongly recommended that the applicants be allowed to adopt the child in his best interests.
11. There is also a positive report in favour of the applicants from Little Angels Network dated 12th April 2023. According to the report prepared by Carolyn Okuta and Grace Onkabi, the suitability of the applicants was tested on the following parameters: income, assets, liabilities, home environment, age, social engagements, personal history of the applicants, motivation and expectation, the aspect of good and moral conduct. In the overall score it was established that the applicants have all the necessary qualities to be adoptive parents to the child whom they have stayed together since he was 10 years old.
12. In Blacks’ law dictionary 8th edition 2004 page 148 adoption is defined as the relation of parent and child created by law between persons who are not in fact parent and child. Section 1 of the [children act](#) parental responsibility means all rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child; by implication an adoptive parents gets the rights and obligations of a biological parent.
13. The Convention on the Rights of the Child puts children at the centre of any legal and administrative action undertaken by authorities. It recognises children as rights holders that need to be engaged in their own development. It promotes accountability to the citizens by making government the main duty bearer in fulfilling children’s rights (Save the children 2007: 1). Any action to be undertaken therefore requires having a child rights situational analysis that is asking the ‘right’ questions so that children stay at the centre of the analysis (Ibid). Specifically, on the BIP, the CRC Committee advised:-

“... Every legislative, administrative and judicial body or institution is required to apply the BIP by systematically considering how children’s rights and interests are or will be affected by their decisions and actions...” (CRC Committee 2003 para 12).

The principle of child participation for example is a key pillar in ensuring the best interests of a child because it affirms children as rights holders putting them at the centre of decision making. It is associated with other rights such as the right to information; expression and participation in decision-making (Save the Children, 2005:31). It also emphasizes rights



related such as freedom of thought conscience and religion on the freedom of association, and cultural expressions (Articles 14,15,30,31 of CRC). Other regional instruments like ACRWC (art 4) also give prominence to this principle and provide that in all judicial or administrative proceedings affecting a child who is capable of communicating his or her views an opportunity to that extent should be provided directly or indirectly through an impartial representative as a party to the proceedings.

14. In its GC No. 7 the CRC Committee stated: -

The principle of best interests applies to all actions concerning children and requires active measures to protect their rights and promote their survival, growth, and well-being, and for children to be heard in all cases where they are capable of expressing their opinions or preferences (UNICEF 2007:37)

15. This is the notion of the power to be assumed by the adoptive parents, from bottom to top, to ensure that the minor enjoys the rights and fundamental freedoms as enshrined in *the Constitution*, the Children's Act and International Law instruments as stipulated under Article 2(5) and (6) of *the Constitution*. In this application, efforts have been made by the Director of Children Services and the Little Angels Network to ensure that the applicants seeking adoption are indeed the right persons, having lived with the child for some time now and there is evidence that they are satisfied that the applicants are the right persons to adopt the child. Inwardly and outwardly, upon evaluation of the material evidence, I find no reason not to grant the adoption order in favour of the applicants.

16. For those reasons the following orders shall follow the decision:

- a. That the Applicants JKC and AJ being Kenyan citizens are hereby authorized to adopt baby S born on 21st August 2010.
- b. That a declaration be and is hereby made that by this adoption order, the child shall be known as SSL and having been born in Kenya is therefore a citizen by birth and is entitled to all the rights and benefits under *the constitution* of Kenya and applicable laws.
- c. That by dint of the law David Keter and Eunice Keter respectively are appointed as legal guardian of the minor SSL.
- d. That the Registrar General of Births is directed to enter the adoption order into the registry of adoption and as a consequence issue a Birth Certificate which is a mandatory instrument for every Kenyan citizen.
- e. That by virtue of this adoption order, the minor shall be eligible to be issued with a Kenyan passport, which gives him access to the diaspora and to all the rights which accrue from foreign territories.
- f. There shall be no orders as to the Costs of this Originating Summons.
- g. Orders accordingly.

DATED, SIGNED AND DELIVERED VIA CTS IN ELDORET THIS 28TH JANUARY 2026

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R. NYAKUNDI
JUDGE

