



**In re JM alias JMM (Minor) (Adoption Cause E023 of 2025)
[2026] KEHC 590 (KLR) (28 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 590 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
ADOPTION CAUSE E023 OF 2025
PN GICHOHI, J
JANUARY 28, 2026**

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF (MINOR) JM ALIAS JMM

IN THE MATTER OF

MFK 1ST APPLICANT

MFK 2ND APPLICANT

JUDGMENT

1. By an Originating Summons dated 1st July, 2025 and expressed under Sections 183, 184, 186 and 193 of the Children’s Act, the Applicants seek for the following Orders: -
 1. That the consent of the biological parents be dispensed with as the mother is deceased and the father is unknown.
 2. Applicants be authorized to adopt JM alias JMM and hence be known as JMM.
 3. The Registrar General do make the appropriate entries in the Adopted children Register in respect of JMM.
 4. The guardian ad litem be discharged and PMM be appointed as legal guardian of the Minor herein in event that the Applicants herein die or are in any way incapacitated or unable to discharge their parental obligations.
 5. The court does issue such orders as may be necessary in the best interest of the Child.
2. In support of that application is an Affidavit jointly sworn by the Applicants herein. They state that they are both Kenyan citizens with the 1st Applicant having born on 5th December 1969 while the 2nd Applicant was born on 5th December 1976. They have been married since 19th December, 2003 and live in Nakuru Teachers Estate. They have been living with the Minor since 18th June 2009 when his biological mother died but the father of the Minor is unknown. They pray that they be allowed



to adopt the Minor. They have annexed several documents in support of their averments and their suitability as adoptive parents.

3. Upon hearing the Applicants on the Chamber Summons dated 1st July 2025, this court appointed SW as the guardian ad Litem as sought and further directed that a report be availed by the Director of Children Services in the Ministry of Gender, Children and Social Development in regard to the application for adoption.
4. In his testimony, MFK (1st Applicant) told the Court that the minor's mother is sister to 1st Applicant's wife but now deceased. He confirmed that reports by the Adoption Society and the Children's Office, dated 13th June 2024 and 25th November 2025 respectively, recommended that the Applicants' be allowed to adopt the Minor.
5. On her part, the 2nd Applicant confirmed the joint statement and Affidavit sworn by herself and her husband (1st Applicant) together with the Affidavit of means. She explained that they have no children of their own and have never adopted any. She explained that they have lived with the Minor for 15 years and they wish to adopt him.
6. PMM (proposed legal guardian)) testified that his daughter AWM was not married. She left behind the Minor (his grandson). He supports the adoption and understand his role in this adoption.

Determination

7. This court has considered this application together with the Supporting Affidavit, the reports filed as well as all the evidence adduced in support thereto. The prerequisites for adoption are set out in section 184 (1) of the Children's Act 2022 which provides –
 - a. the council in accordance with the rules has declared the child free for adoption.
 - b. the child has attained the age of six weeks.”
8. From the Birth Certificate No. XXXXXX, the Minor was born on 15th March, 2008 at [Particulars Withheld] in Nakuru. He is therefore a Kenyan by birth. The Minor was about 18 years of age as at the time of filing the application for adoption but the process towards this adoption started earlier when he was around 15 years.
9. He has lived with the Applicants since his single mother died on 18th June, 2009. He was then aged one year three months. He has grown knowing the Applicants as his parents.
10. Indeed, the report by the Child Welfare Society dated 13th June 2024 shows that when the Minor was interviewed, he stated that he was aware of the intended adoption and its implication.
11. He and was happy about that arrangement, reason being that since his mother's demise, he has known the Applicants as his parents and from the way they treated him, he perceived them as his mother and father.
12. This court had an opportunity to see the Minor when he appeared in court. He was referring to the Applicants as Dad and Mum and the strong bond displayed among the three of them was clearly visible.



13. The 2nd Applicant is a biological sister to the Minor's mother. He is therefore her nephew. The documents availed show that no one has ever come to the family or gone to any institution claiming this Minor.
14. With the Minor's mother having died and the father unknown, then consent of the biological parents cannot be obtained.
15. Regarding suitability, the two Applicants are husband and wife. Section 186 (1) & (2) of the Children Act provides that; -
 - “The Court may make an adoption order on application by—
 - (a) a sole applicant; or(b)two spouses jointly.
 - (2) The Court shall not make an adoption order in any case unless—
 - (a) the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - (b) the applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
 - (3) The restrictions in subsection
 - (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father or relative of the child.”
16. This is clearly a kinship adoption within the meaning assigned under Section 2 of the Children's Act 2022 and allowed under Section 193 (1) of the Act. Further, the Applicants' age is within the law as provided above and as reflected by their Birth Certificates. They have no criminal record.
17. The reports availed and the documents relied on are in favor of this application. Consequently, this Court is satisfied that the legal pre-requisites for an adoption order have been met. The Applicants are suitable to adopt the Minor.
18. Accordingly, this Court finds this adoption is allowed as follows:-
 1. The consent of the biological parents is hereby be dispensed with as the mother is deceased and the father is unknown.
 2. The Applicants FKM and LWM are hereby authorized to adopt JM alias JMM.
 3. The Minor JM alias JMM shall henceforth be known as JMM.
 4. JMM be issued with an Identity Card to that effect.
 5. The Registrar General do make the appropriate entries in the Adopted children Register in respect of JMM.
 6. PMM is hereby appointed as Lega Guardian JMM.
 7. SW is hereby discharged from the duties as a Guardian Ad Litem.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 28TH DAY OF JANUARY , 2026.

PATRICIA GICHOHI

JUDGE



In the presence of:

Mr. Mutonyi for Applicants

Erickson, Court Assistant

