



**In re FB (Adoption Cause E008 of 2025)
[2026] KEHC 1461 (KLR) (13 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 1461 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
ADOPTION CAUSE E008 OF 2025
JRA WANANDA, J
FEBRUARY 13, 2026
IN THE MATTER OF THE CHILDRENS' ACT, NO. 29 OF 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY FB**

IN THE MATTER OF

JMJ 1ST APPLICANT

MNK 2ND APPLICANT

JUDGMENT

1. Before Court for determination is the Applicants' Originating Summons dated 18/09/2025. The same seeks orders as follows:
 - i. That the Applicants be authorized to adopt the child Baby F.B.
 - ii. That the consent of the biological parents be dispensed with as the child was abandoned.
 - iii. That upon making of the adoption orders the said child be known as C.M.M.
 - iv. That the Registrar General do make the appropriate entry of C.M.M in the Adopted Children's Register.
 - v. That the child C.M.M. be presumed to be a Kenyan Citizen born in Kenya and that the Director of Immigration Services do issue CMM with a Kenyan passport.
 - vi. That W.M.J. be appointed Legal Guardian of the child CMM.
2. The Application is supported by the Applicants' joint Affidavit in which they deponed that they are 51 and 53 years, respectively, they got formally married on 17/04/2004 under the African Christian Marriage and Divorce Act, they are a soldier and a farmer, respectively, they reside in Kipkenyo within Uasin Gishu County, they are Christians and they have one child. Apart from confirming compliance



- with, and/or existence of the other usual statutory stipulated requirements and undertakings, they deponed further they are not related to the child who was received into their care and possession on 10/06/2021, and has been continuously in their care and custody since then.
3. On 15/07/2025, I appointed one KJY to be the Guardian Ad Litem pending hearing and determination of this matter, which then proceeded for viva voce hearing on 23/10/2025.
 4. PW1 was Ms. Sharon Komen, a social worker at the Child Welfare Society of Kenya (CWSK). She produced the Report dated 18/06/2025 and confirmed that she is the maker thereof. She then testified that that the Applicants applied for adoption through the CWSK on 21/01/2016, and the same was approved on 29/03/2017, upon which that the child was placed in the Applicants' foster care on 10/06/2021. She stated that CWSK has since then conducted assessments, and is satisfied that the child has been well taken care of, he is in school, and he is in good health. He thus termed the Applicants as suitable adopters.
 5. PW2 was Anthony Kipkurui, a Children's Officer at Kapsaret, within whose jurisdiction the Applicants reside. He produced the Report dated 14/09/2025, and he, too, confirmed that he is the maker thereof. He then testified that he conducted an assessment on 14/09/2025, a weekend, at the Applicant's home in Kipkenyi, and observed that the environment was conducive, the child is in school, and that he also saw the Applicants' other child, who is about 26 years now, and who does not live there as he is an adult. He confirmed that the 1st Applicant works with the Kenya Defence Forces (KDF) and is based at [.....], and the 2nd Applicant is a farmer. He stated that the child is happy and described the Applicants as a capable couple.
 6. PW3 was KJY, the Guardian ad litem referred to above. He testified that he lives in Eldoret and works at the [.....] Hospita as a Human Resource Assistant. He adopted his Affidavit filed herein and stated that he fully understood the duty bestowed upon him by the appointment. He testified that the 1st Applicant was his college mate, and he is a family friend of the Applicants. He then produced his Report dated 16/09/2025, and conveyed his satisfaction that the Applicants are suitable adopters since he has been visiting them a lot, and that the child is well known to him.
 7. PW4 was WMC, the proposed Legal Guardian. He testified that he lives in Kakamega and works as a trainer at [.....] Technical Training Institute, that the 1st Applicant is his younger brother, and that the 2nd Applicant is the 1st Applicant's wife. He confirmed his understanding of a Legal Guardian's duties, and his readiness and willingness to step in the shoes of the adopters in the event of their demise. He testified further that the Applicants have a home in Kipkenyo with a compound, and he, too, registered his satisfaction that the Applicants are suitable adopters. He thus confirmed his consent to being appointed the Legal Guardian.
 8. PW5 was the 1st Applicant, JMJ. He adopted his Affidavit and confirmed that he works with the KDF in [.....], he lives in Kipkenyo, and that the 2nd Applicant is his wife to whom he got married in 2004. He stated that his wife is unable to conceive, and that they have therefore agreed to adopt. He testified that they have the ability to adopt, they applied to the Children Office which then identified and linked the baby, who was in Muran'ga, to them, and they have bonded well. He confirmed that he earns a salary, he lives in his own home, his wife is a farmer, and he is 51 years old while the 2nd Applicant is 53. He also confirmed that they have another son aged about 26 years old, his wife's son as he is not the biological father, and who does not however live with them as he is an adult.
 9. PW6 was the 2nd Applicant. She, too, adopted her Affidavit, and confirmed that she lives in Kipkenyi, she is a farmer, and that the 1st Applicant is her husband to whom she has been married since 2004. She, too, testified that it is the Children's Office in Eldoret, that, upon their request, linked them to the



child at the Muranga Children’s Centre, then aged 2 years old, with whom they have lived for about 5 years now, and they have bonded well.

10. I then also had a session with the child, whom I probed briefly and in a friendly manner for the purpose of ascertaining the extent of his bond with the Applicants, and the manner in which his welfare has been catered for. During the session, the minor confirmed that he is enrolled in school, and stated that he loves his parents (the Applicants). He also identified the 1st Applicant as “Daddy” and the 2nd Applicant as “Mom”, and the two Guardians as “uncles”. He confirmed that he wants to live with the Applicants forever as his parents.

Determination

11. The issue for determination is “whether the Applicants should be allowed to adopt the child the subject hereof”.
12. Regarding litigation concerning minors, Article 53(2) of *the Constitution* stipulates the over-arching principle which must apply whenever any decision concerning a child is to be made, to be the “best interests” of the child. It provides that:

“ A child’s best interests are of paramount importance in every matter concerning the child”

13. The said principle is also echoed in Section 8(1) of the Children’s Act, No. 29 of 2022.
14. Regarding the law of adoption in Kenya, the relevant provisions are to be found in Part XIV of the Children’s Act, 2022 which provides as follows:

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- (1) 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”, authorising an applicant to adopt a child.
- (2) 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.
- (3) In this Act, adoption means local, kinship and foreign adoption

.....

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- (1) A person shall not commence any arrangements for the adoption of a child unless -
 - (a) the Council, in accordance with the rules, has declared the child free for adoption; and
 - (b) the child has attained the age of six weeks.

.....

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- (1) Any child who is resident within Kenya may be adopted whether or not the child is a Kenyan citizen, or was born in Kenya.



- (2) Without prejudice to the generality of subsection (1), no Court may entertain an application for an adoption order in respect of a child unless—
 - (a) the child concerned has been in the continuous care and control of the applicant within Kenya for a period of three consecutive months preceding the filing of the application; and
 - (b) the application for an adoption order is supported by a report made by a duly registered adoption society recommending that an adoption order be made.
- (3) The report referred to in subsection (2)(b) shall contain the society's findings and recommendations in respect of the child and the applicant or applicants, as the case may be.
- (4) The following children shall be eligible for adoption —
 - (a) a child who is an orphan and has no guardian or caregiver able and willing to take care of the child
 - (b) a child who has been abandoned or whose parents' or guardian's whereabouts cannot be traced within a period of one year;
 - (c) children who are willingly offered for adoption by their biological parents in accordance with regulations made under this Part.

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- (1) 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.
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- (8) Subject to the provisions of this section, an application for an adoption order in respect of a child shall be accompanied by written consents of the following persons
 - (a) a parent or guardian of the child, or any person who is liable by virtue of any order or agreement to contribute to the maintenance of the child;



- (b) on the application of one of the spouses, the consent of the other spouse; and
 - (c) in the case of a child who has attained the age of ten years, the child himself or herself
-”

15. According to the Reports from the Child Welfare Society of Kenya (CWSK), and the Children’s Office, the child was found abandoned at [.....] Market in Masinga Sub-County, Machakos County, and he was rescued by the Assistant Chief of [.....] Sub-Location and taken to Masinga Level 4 Hospital for medical check-up. The Reports also state that Assistant Chief then reported the matter to the Masinga Police Station, upon which the child, with the participation of the local Children’s Office, was placed at the local CWSK Mama Ngina Kenyatta TPS where he was subsequently formally committed, pursuant to a Court order issued by the Magistrate’s Court at Kithimani, for care and protection.
16. Regarding merits of the Application, the Report dated 18/06/2025 submitted by the CWSK, gives particulars and background information of the Applicants as the prospective adoptive parents. The Report states that interviews by the Children’s office were conducted with the Applicants, and that the Children’s officers visited and inspected the Applicants’ home setting in Eldoret, whose environment they found to be child-friendly and conducive for the child’s mental, social and physical growth. The Report also returns a favorable assessment regarding the Applicants’ financial ability, and also confirms that the child has been declared free for adoption in accordance with the Society’s Certificate Serial No. [.....] dated 10/06/2021. In the end, the Report recommends that the adoption be allowed. The second Report dated 14/09/2025 submitted by the County Children’s Office, Uasin Gishu, echoes the observations and conclusions made in the first Report, and in the end, it, too, recommends that the adoption be allowed. The Guardian Ad Litem’s Confidential Report dated 16/09/2025 also registers his confidence over the Applicants’ ability to adopt the child
17. Also on record, and which I have also carefully perused are copies of the Applicants’ National Identity Cards, their Marriage Certificate, and also respective Clearance Certificates from the National Police Service indicating no previous criminal records on the part of the Applicants. There are also copies of documents confirming that the child is enrolled at [.....] Academy in Eldoret, and according to the Report dated 11/09/2025, authored by the School’s headteacher, the child has adjusted well under the care of the Applicants, he is happy, confident and emotionally stable, and interacts well with his schoolmates. There is also the Affidavit sworn by the Applicant’s 26 years old son whereof he has supported the Application.
18. I have carefully assessed the several Reports and Affidavits filed herein, together with the witness testimonies, and I have also noted that the minor, said to be currently aged about 6 years, has been in the custody and care of the Applicants since he was about 2 years old, which means he has been in the Applicants care and custody for about 4 years now. There being no negative report of any mistreatment or neglect throughout these years, and the Applicants having met the requirements stipulated in Part XIV of the Children’s Act, 2022, I form the opinion that it will be in the best interest of the child to allow him to be adopted by the Applicants as joint adoptees.

Final Orders

19. In light of the foregoing, I allow the Originating Summons dated 16/09/2025 in terms of prayers 1, 2, 3, 4, 5, and 6 thereof, in the following terms:



- i. An Adoption Order is hereby issued permitting and/or authorizing the Applicants, J.M.J and M.N.K, to jointly adopt the child known as F.B.
- ii. The consent of the biological parents of the child is hereby dispended with as the child was abandoned.
- iii. Pursuant to the above, it is ordered that the name of the child, currently known as F.B., shall be C.M.M.
- iv. The Registrar General is directed to enter this Order in the Adopted Children’s Register and to issue a Certificate to that effect.
- v. The child, formerly known as F.B., and now to be known as C.M.M, be and is hereby presumed to be a Kenyan citizen born in Kenya, and the Director of Immigration Services is hereby ordered to issue the child with a Kenyan Passport upon request.
- vi. W.M.J. is hereby appointed the Legal Guardian of the minor, formerly known as F.B., and now to be known as C.M.M, and entrusted with the responsibility of taking care of the child in the event the joint applicants die or are otherwise permanently unable to take care of him before he attains the age of majority.
- vii. The Guardian *ad Litem*, K.J.Y., is now hereby discharged.

DELIVERED, DATED AND SIGNED AT ELDORET THIS 13TH DAY OF FEBRUARY 2026

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WANANDA JOHN R. ANURO

JUDGE

Delivered in the presence of:

Both the Applicants
Court Assistant: Brian Kimathi

