



**In re DK (Minor) (Adoption Cause E004 of 2024)
[2026] KEHC 1160 (KLR) (4 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 1160 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
ADOPTION CAUSE E004 OF 2024**

TA ODERA, J

FEBRUARY 4, 2026

IN THE MATTER OF ADOPTION UNDER SECTION 183 OF THE CHILDREN’S ACT, 2021

AND

IN THE MATTER OF ADOPTION OF THE MINOR DK 13 YEARS

IN THE MATTER OF

SLNO 1ST APPLICANT

CMM 2ND APPLICANT

JUDGMENT

Introduction

1. This Judgment relates to Kisii High Court adoption cause no. E004 and E005 of 2024 caused are kinship adoption causes involving two orphaned brothers. The applicants in both matters are the same. I have taken the liberty to determine with the matters together for expediency and in the best interest of the children.
2. Sam L. Nyang’ate Onyambu and Carrinael Mogiti Marucha, seek orders to jointly adopt the minors Demistrius Nyamasege and Debastian Kaburi, who are brothers and nephews to the Applicants.
3. The application before court is by Originating Summons dated 8th August 2024, brought pursuant to the provisions of the Children Act, 2022, and all other enabling provisions of the law.
4. The matter came up for mention on various dates to confirm compliance with statutory reports and safeguards and minors, the parties and their witnesses were subsequently heard.

Background of the Minors

5. The evidence before court establishes that the minors:



1. Demistrius Nyamasege was born in December 2012.
2. Debastian Kaburi was born on 20th February 2010.
6. The minors are biological brothers born to the late Sofient Keara Onsomu and the late Jane Kerubo Onsomu. Their mother passed away in April 2014 due to malaria, while their father passed away in September 2015
7. Upon the demise of their parents, the minors were left under the care of their paternal uncle Joshua Oendo Osoro, who, due to limited means and capacity, was unable to adequately provide for their welfare.
8. In 2016, the female Applicant, Carrinael Mogiti Marucha, in consultation with extended family members, assumed responsibility for the minors' care. Since then, the Applicants have continuously provided for the minors' upkeep, education, health, and general welfare.

Proceedings and Evidence

8. On 10th June 2025, the court conducted an in-camera examination of Demistrius Nyamasege, then aged 13 years. The child demonstrated sufficient intelligence and understanding of the nature and consequences of adoption. He freely expressed his consent to the adoption and confirmed that he had lived with the Applicants and understood adoption to be permanent.
9. PW1 – Joel Orina Omagwa, the appointed Guardian ad Litem, testified and adopted his affidavit dated 8th August 2024. He confirmed that the Applicants are relatives of the minors, that they have consistently supported the children, and that adoption would be in the minors' best interests.
10. PW2 – Caroline Okuta, a social worker from Little Angels Network, testified that: The minors were declared free for adoption on 31st January 2024. A certificate declaring the minors free for adoption was duly issued. The Applicants were assessed and approved as suitable adoptive parents. Home visits and interviews were conducted, and the Applicants were found fit both socially and financially.
11. On 2nd October 2025, the Applicants testified in this court: PW3 – Carrinael Mogiti Marucha confirmed her marriage to the co-Applicant, their residence in the United States of America, their Kenyan citizenship, and their financial ability to support the minors. She expressed her wish that the minors be formally adopted and renamed. PW4 – Sam L. Nyang'ate Onyambu corroborated the testimony of PW3, affirmed his understanding of the legal consequences of adoption, and proposed Reuben Nyabuto Nyang'ate as the legal guardian in the event of incapacity or death of the Applicants.
12. PW5 – Reuben Nyabuto Nyang'ate, the proposed legal guardian, testified and confirmed his willingness and ability to assume parental responsibility should the need arise. He stated that he currently resides with the minors in Kenya and monitors their daily progress.
13. The court has carefully considered the Children Officer's Report dated 20th September 2025. The Guardian ad Litem's Report., Reports from Little Angels Network, a registered adoption agency, School reports from Kenyena Junior Comprehensive School, Evidence of consent from extended family members. All the reports are unanimous that this is a kinship adoption, that the minors are well bonded with the Applicants, and that the adoption serves their best interest.

Legal Analysis & Determination

15. Under Article 53(2) of *the Constitution* of Kenya, 2010, and section 8 of the *Children Act*, 2022, the best interests of the child are of paramount importance in every matter concerning a child.



16. The court is satisfied that: The Applicants are adults of sound mind, legally married, and Kenyan citizens. The minors are legally free for adoption. All necessary consents have been obtained or lawfully dispensed with. The Applicants have demonstrated financial, emotional, and social capacity to parent the minors. The minors understand the nature of adoption and have freely consented.
17. The court further finds that the proposed adoption will give the minors permanency, stability, identity, and full parental care within the extended family which accords with both the spirit and letter of the law.
18. In light of the foregoing, and having carefully evaluated the evidence, the reports filed, and the applicable law, this court finds that the applications in both files are merited and I proceed to allow the same.

Orders

19. Accordingly, the court makes the following orders:
 - a. The Applicants, Sam L. Nyang'ate Onyambu and Carrinael Mogiti Marucha, are hereby authorized to jointly adopt the minors Demistrus Nyamasange and Debastian Kaburi.
 - b. Upon adoption, the minor Demistrius Nyamasege shall henceforth be known as Demistrius Nyamasege Marucha.
 - c. Upon adoption, the minor Debastian Kaburi shall henceforth be known as Debastian Kaburi Marucha.
 - d. The Registrar-General is directed to make the appropriate entries in the Register of Adopted Children.
 - e. The Director of Immigration is authorized to issue Kenyan passports to the adopted children, if so applied.
 - f. Reuben Nyabuto Nyang'ate is hereby appointed as the legal guardian of the minors in the event of demise or incapacity of the Applicants. The Guardian ad Litem is hereby discharged

**DELIVERED VIRTUALLY VIA TEAMS PLATFORM ON THIS 4TH DAY OF FEBRUARY 2025
IN THE PRESENCE OF:**

T. A. ODERA JUDGE

4.2.26

Mr. Nyambati for the Applicants

Court Assistant Mr. Kipchirchir

