



**In re Adoption Baby MJ (Adoption Cause E007 of 2024)
[2026] KEHC 2295 (KLR) (27 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2295 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
ADOPTION CAUSE E007 OF 2024
OA SEWE, J
FEBRUARY 27, 2026
IN THE MATTER OF ADOPTION OF BABY M J
AND
IN THE MATTER OF AN APPLICATION BY C A O**

IN THE MATTER OF

CAO APPLICANT

JUDGMENT

1. The Originating Motion dated 23rd August 2024 was brought under Sections 183, 184, 187(1)(a), 193 and 201 of the [Children Act, 2022](#), seeking the following orders:
 - (a) That CAO be authorized by the Court to adopt Baby MJ and that upon adoption BabyMJ be known as JMO.
 - (b) That upon making the adoption order, GAO be appointed as the legal guardian of the child as provided for by Section 195 of the [Children Act, 2022](#).
 - (c) That upon making the adoption order, the Registrar General do make an entry regarding the adoption and the estimated date of birth as 19th May 2017 in the Adopted Children Register as provided for by Section 201 of the [Children Act](#).
2. The application was supported by the applicant's affidavit, sworn on the 23rd August 2024, in which she averred that she is a Kenyan by birth, born on the 1st January 1970. She also averred that she is a widowed member of the Seventh Day Adventist Church. The applicant further deposed that the infant she proposes to adopt is also a Kenyan and was under the care and protection of Amkura Orphanage Home. She declared that she has not received or agreed to receive any payment or reward in consideration of the adoption.



3. Among the documents annexed to the applicant's affidavit was a report prepared by Little Angels Network confirming that the subject, a male baby known asMJ, was abandoned by his biological mother at Busia County Referral Hospital. The matter was reported to Busia Police Station by LM, a nurse at the Hospital. Thereafter, the Busia Sub-County Children's Officer secured a vacancy for the child at Amkura Orphanage Home where the child was admitted on 20th February 2018 pending formal committal; which was done on 11th October 2018 *vide Busia Chief Magistrate's Protection and Care Case No. 106 of 2018*.
4. The report further confirms that the child is free for adoption as no information is available regarding the biological family; investigations done by the Police did not yield any results; and that during his stay at the institution no parent or relative turned up to claim the child. Their recommendation was that it is in the best interest of the child that he be given an alternative family to benefit from the closer degree of family love, care and protection that may not be available in an institution.
5. The Court also called for a report from the County Children's Office and the report was duly filed on 26th January 2026 by the County Coordinator of Children Services. It confirms that an assessment was done on 26th January 2026 with a view of establishing the family environment, the subject's living conditions and the applicant's suitability in regard to child care and protection. The County Coordinator of Children Services noted that:
 - (a) The applicant is aged 55 years and therefore qualifies to apply as a sole applicant under Section 186 of the *Children Act*.
 - (b) The applicant's family members have raised no objection concerning the whole process.
 - (c) The applicant is of sound mind and capable of making informed decisions.
 - (d) The applicant has a proven track record of being responsible parent, having previously adopted two other children.
 - (e) The child in question has bonded well with the rest of the family throughout the placement period.
6. In view of the foregoing, the Children's Officer recommended the adoption of the subject by the applicant, having found her fit and qualified to adopt the child in question.
7. Article 53(2) of the *Constitution* is explicit that:
 - (2) A child's best interests are of paramount importance in every matter concerning the child.
8. This precept is reiterated in Section 8 of the *Children Act*, No 29, 2022. The provision states as follows:
 - (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.
 - (3) In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the child's age and degree of maturity.
9. Therefore, in a matter such as this, the court is enjoined to give due consideration to the above factors. Indeed, the purpose of adoption is to provide children who cannot be raised by their birth parents with a permanent, secure, and loving family with a view ensuring their long-term stability and well-being. For this reason, Section 183 of the *Children Act*, provides that:
 - (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.
10. The evidence placed before the Court confirms that the child, now aged 8 years, has been in the custody and care of the applicant with the permission of Little Angels Network and Amkura Orphanage Home. A Certificate declaring the Baby free for adoption was exhibited by the applicant alongside a report prepared by Little Angels Network pursuant to Section 184(1)(a) of the *Children Act*. In addition, the report by the Children's Officer confirms that as at the time of the assessment, the child had bonded well with the applicant and her family.
11. In addition to the foregoing, Section 194(1) of the *Children Act* is explicit that:

“Before making an adoption order, the Court shall inquire into and be satisfied on evidence before it that—



- (a) every person whose consent is required under this Part, which consent has not been dispensed with, has consented to and understands the nature and effect of the adoption order for which the application is made;
- (b) in the case of a parent, the parent understands that the effect of the adoption order is to permanently deprive him or her of his or her parental rights;
- (c) if made, the order will be in the best interests of the child, having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;
- (d) the applicant has not received or agreed to receive, and that no person had made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption;
- (e) any person whose consent is dispensed with on the grounds of incapacity is still incapable of giving consent at the date of making the order;
- (f) where the applicant is not a relative of the child, reasonable steps have been taken to inform the relatives of the child of the proposed adoption, and no relative who is capable of exercising care over the child has expressed willingness to do so;
- (g) both the applicant and the child have been assessed and evaluated by a duly registered adoption society in Kenya in accordance with this Act and the society's report delivered to the Court; and
- (h) the Council has certified and declared the child free for adoption.”

12. The applicant has offered sufficient evidence to prove that the child was abandoned at Busia Teaching and Referral Hospital by the biological mother and therefore the father is unknown. So far nobody has come up to claim the child. Therefore, the foregoing requirements having been met by the applicant to the satisfaction of the Court, I find merit in the Originating Summons dated 11th April 2025. The same is hereby allowed and orders granted as hereunder:

- (a) That the applicant, CAO, be and is hereby authorized to adopt BabyMJ alias JMO and that an adoption order be and is hereby issued to that effect.
- (b) That the Baby shall be henceforth formally known as JMO and that the Registrar of Births and Deaths do issue the said JMO with a Birth Certificate containing his full names as given by the adoptive parents.
- (c) That the Registrar General be and is hereby directed to make the appropriate entries in the Adopted Children's Register to reflect the adoption of the child, JMO, by the adoptive parents herein.
- (d) That GAO be and is hereby appointed as the Guardian of the child for purposes of Section 195 of the Children Act, 2022.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT HOMA BAY THIS 27TH DAY OF FEBRUARY 2026.

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**OLGA SEWE
JUDGE**

