



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re LNJ (Baby) (Adoption Cause E001 of 2025)
[2026] KEHC 2288 (KLR) (27 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2288 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY
ADOPTION CAUSE E001 OF 2025
OA SEWE, J
FEBRUARY 27, 2026
IN THE MATTER OF ADOPTION OF BABY L N J
AND
IN THE MATTER OF AN APPLICATION BY D O N & A A A**

JUDGMENT

1. The Notice of Motion dated 31st January 2025 was filed by DON and AAA under Section 3A of the [Civil Procedure Act](#), Chapter 21 of the Laws of Kenya and Part XIV of the [Children Act](#), 2022, for the following orders:
 - (a) That the Court be pleased to appoint NAAo and EAN as legal guardian and guardian at litem, respectively, of the minor LNJ alias GAO.
 - (b) That the court be pleased to issue an order directed at the County Coordinator for Children Services, Homa Bay County, to carry out appropriate inquiries, write and file a report on the welfare of the child, namely, LNJ alias GAO, who is the subject of the application for adoption filed herein. (Spent)
 - (c) That the costs of the application be in the cause.
2. The application was premised on the grounds that the subject was given up for adoption by her biological parents; and that the child was thereafter given to the applicants by Little Angels Adoption Network Society sometime in April 2024 and has since been under their care. The applicants further deposed that the proposed guardians are ready to be and have consented to being appointed as Guardian and Guardian Ad Litem, respectively, to the minor.
3. The application was supported by the joint affidavit sworn by the applicants as well as the joint affidavit of the proposed Guardian and Guardian Ad Litem. They deposed that NAAo is the sister in law to the 1st applicant while EAN is the biological sister to the 1st applicant. They both confirmed that they had consented to being appointed as Guardian and Guardian Ad Litem to the minor.



4. The court record shows that Prayer 2 of the application was granted on 28th April 2025 and therefore is spent. Having carefully considered the application together with the affidavits filed in support thereof, I am satisfied that EAN is a fit and proper person to be appointed as Guardian Ad Litem the minor, LNJ alias GAO and it is hereby ordered that she be appointed as such. The appointment of NAAo to be considered alongside the substantive adoption application.
5. The applicants also filed another application dated 31st January 2025 by way of Chamber Summons seeking orders that:
 - (a) They be authorized to adopt the minor, LNJ alias GAO.
 - (b) That upon the adoption order being granted, the minor be known as GAO and the Registrar General be ordered to make an entry in the Adopted Children's Register recording the adoption in accordance with the particulars set out in the Adoption Order.
6. The application was premised on the grounds that the child was given up for adoption by the biological parents and, through Little Angels Adoption Network, was entrusted to the care of the applicants. In their Supporting Affidavit, the applicants averred that they are husband and wife and teachers by profession; and that they have not been blessed with any child of their own. They further deposed that they are ready and willing to provide the minor with love, care and support needed for the general welfare and prosperity of the child.
7. The applicants annexed to their Supporting Affidavit several documents, including a report and certificate issued by Little Angels Network, declaring the minor free for adoption. The documents confirm that the minor is free for adoption and that she was voluntarily given up for adoption by her biological parents.
8. Pursuant to the Court Order dated 28th April 2025, the County Coordinator of Children Services filed his report dated 10th June 2025 and confirmed that:
 - (a) Consent was voluntarily given in writing by both parents, namely, BA (mother) and LL (father); the first one was given on 4th December 2023 and the second one on 26th February 2024.
 - (b) The applicants have been married since 3rd January 2013 but unfortunately have not been blessed with a child of their own; and that it was against this background that they resolved to adopt the subject minor.
 - (c) The applicants are trained teachers and are currently employed by Teachers Service Commission.
 - (d) In the year 2019, the couple acquired a piece of land at Rodi Kopany center where they have settled; and that their marriage arrangement at the moment is monogamous.
 - (e) The applicants are Christians of the Seventh Day Adventist faith.
 - (f) The applicants undertook a medical examination at Osani Health Center and were confirmed to be of sound mind and in excellent physical and mental health. It was further confirmed that the applicants have no medical condition and therefore suffer no chronic illness that warrants attention. The report further shows that applicants have a medical cover with both AOM Minet and SHA which will also be extended to the subject.
 - (g) The family currently resides at Rodi Kopany center, a ten minutes' drive from Homa Bay town on the Homa Bay-Rongo Road.



- (h) The applicants live in two bedroomed permanent house with kitchen and sitting room; and the house is adjacent to several others which have been let out to tenants.
9. The report of the County Coordinator, Children Services, further shows that child suitability assessment was done on 9th June 2025 to establish the family environment, the subject's living conditions and the applicants' suitability in regard to child care, safeguarding and protection. It was noted that the minor had bonded well with the couple; and that the extended family has welcomed the subject within the family. The report further confirms that the home environment is well-suited for the growth and development of the subject.
10. Accordingly, the County Coordinator found the applicants DON and AAA fit and suitable persons to adopt the subject having met the eligibility criteria as defined in the National Alternative Care Policy Guidelines 2014 and made his recommendations accordingly.
11. 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.
12. 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.
13. Therefore, 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.
14. The evidence placed before the Court confirms that the child has been in the custody and care of the applicants with the permission of Little Angels Network. 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.
15. 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.”

16. The applicant has offered sufficient evidence to prove that the biological parents of the child freely consented to her being adopted. Therefore, the foregoing requirements having been met by the applicant to the satisfaction of the Court, I find merit in the Notice of Motion dated 31st January 2025. The same is hereby allowed and orders granted as hereunder:

- (a) That the applicants, DON and AAA, be and are hereby authorized to adopt Baby LNJ alias GAO and that an adoption order be and is hereby issued to that effect.
- (b) That the Baby shall be henceforth formally known as GAO and that the Registrar of Births and Deaths do issue the said GAO with a Birth Certificate containing her 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, GAO, by the adoptive parents herein.
- (d) That NAAo be and is hereby appointed as the Guardian for the minor, GAO, pursuant to Section 195(1) of the [Children Act, 2022](#).

It is so ordered.

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

.....

OLGA SEWE

JUDGE

