



**In re EH (The Child) (Adoption Cause E020 of 2025)
[2026] KEHC 2218 (KLR) (20 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2218 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
ADOPTION CAUSE E020 OF 2025
G MUTAI, J
FEBRUARY 20, 2026
IN THE MATTER OF THE CHILDREN ACT, 2022
AND
IN THE MATTER OF EH (THE CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR ORDERS
OF ADOPTION OF EH BY MWM (THE APPLICANT)**

BETWEEN

MWM APPLICANT

AND

BUCKNER KENYA ADOPTION SERVICES RESPONDENT

JUDGMENT

1. MWM, the applicant herein, moved this honourable court vide originating summons dated 4th November 2025, seeking orders that:-
 - a. Pursuant to article 14(4) of *the Constitution* of Kenya 2010 and section 11 of The *Children Act*, 2022, this honourable court be pleased to declare the child Baby EH a Kenyan citizen by birth;
 - b. Pursuant to the provisions of section 187 of the *Children Act*, 2022, this honourable court be pleased to dispense with the requirements of the consent to the adoption as required by the provisions of section 186 of the *Children Act*, 2022;
 - c. The applicant, MWM, be authorized to adopt Baby EH.
 - d. Upon the making of the adoption order, the child is to be known as CW;



- e. Upon making the adoption order, MPW and ANW be appointed legal guardians of the child as provided for by the provisions of Section 195 of the *Children Act, 2022*;
 - f. Upon making of the adoption order, the Registrar General do make an entry recording the adoption and the estimated date of birth of the child as 3rd March 2022 in the Adopted Children Register as provided for by Section 201 of the *Children Act, 2022*; and
 - g. The costs of this application be costs in the cause.
2. The application is supported by the averments in the statement in support thereof, sworn on 4th November 2025. The applicant is an adult Kenyan citizen born in 1988. She is single, doesn't have children of her own, and was previously married to PMM, who died on 12th December 2024. Ms. M is a businesswoman engaged in the business of providing credit facilities to clients. The motivation to adopt the baby has been ignited by the desire to have a child, to give an abandoned child a home, and to provide a loving and stable home for her.
 3. Regarding the child, Baby EH is estimated to have been born on 3rd March 2022. She was left with a neighbour by her mother, who had already moved her belongings out of the house and vacated the premises. Efforts to trace her were unsuccessful, and the matter was reported at Riruta Police Station vide OB NO.xx/06/09/2022. She was committed into the legal custody of New Life Home Trust by the Nairobi Children's Court vide Care and Protection Cause No. E335 of 2023.
 4. The child was declared free for adoption by Buckner Kenya Adoption Service in its meeting held on 27th September 2023. Consequently, a Certificate Serial No.0928 thereof was issued. Subsequently, the child was placed under the care of the Applicant on 2nd February 2024.
 5. Upon instituting these proceedings, NNM was on 15th December 2025 appointed guardian ad litem pursuant to Chamber Summons Application dated 4th November 2025. The Director of Children Services and the guardian ad litem were directed to file their respective social inquiry and assessment reports within 30 days of the said date.
 6. Preceding the hearing, the Director of Children Services, through the County Coordinator for Children Services, Kilifi County, filed a report dated 29th January 2026, recommending the adoption. The guardian ad litem filed her report on 6th February 2026, vide which she too recommended the adoption by the applicant.
 7. During the hearing, the applicant urged the court to allow the application to enable her adopt the baby. She stated that she understood the consequences of adoption and knew that the adoption order, once issued, is permanent.
 8. The adoption application was also supported by Irene Anyango Ogutu of Buckner Kenya Adoption Services, Winifred Kambua Kaluku of the Kilifi Children Department, and NNM, who all produced their respective reports and urged the Court to allow the adoption application.
 9. I have considered the application herein, documents in support, and evidence from various witnesses. My humble duty is to ascertain from the available evidence and material in support thereof whether the baby is available for adoption, whether the applicant is fit to adopt the baby, and most importantly, whether the adoption is in the best interest of the child.
 10. I have already set out the circumstances under which the child was found. Efforts to trace her mother subsequently were unsuccessful. The child was placed with the applicant on 2nd February 2024, who has since played the role of a father and mother to her and has been under her care since she was one year



and 11 months old. Nobody has come forward to claim the child, and therefore, the need for consent pursuant to sections 186 and 187 is dispensed with. I am guided by the case of *In re Baby J* [2023] KEHC 1788 (KLR), where the court stated:

“As indicated by the report of the Child Welfare Society of Kenya, Baby J was abandoned by his biological parents. Attempts to trace them have failed to bear fruit. Consequently, he was declared free for adoption and placed with the Joint Applicants. As an abandoned child, there was no *Children Act* one to give the consent required under section 186(8) of the , 2022. That being the case, I dispensed with the consent required under the aforesaid section of the Act in exercise of my power under section 187(1) of the *Children Act*, 2022.”

11. Regarding the baby’s nationality, it is clear that the baby was abandoned by the mother, who left her with a neighbour in Riruta within the Republic of Kenya. *The Constitution* of Kenya, 2010, in Article 14(4) states that a child who is less than 8 years of age, and whose nationality and parents are not known, is presumed to be a Kenyan citizen by birth. In view of this provision, the child herein is presumed to be a Kenyan citizen by birth.
12. The subject child is above 6 weeks and below 18 years, which provision falls within the age bracket of any adoptive baby pursuant to Section 184 (1)(b) of the Children’s Act 2022. Further, Section 185 of the said Act does recognize any child who is resident in Kenya, whether born in Kenya or not, to be eligible for adoption. I have no doubt the child is fit for adoption.
13. The court is required to assess the suitability of the adoptive parent. In this case, the Applicant is a Kenyan citizen, thus qualifying the adoption to be a local one. She is 47 years old, which places her under the age bracket of not less than 25 years or more than 65 years for an adoptive parent in compliance with Section 186 of the Children’s Act. She has been described as financially stable, as she is a businesswoman, with an estimated monthly income of Kes. 55,000/-. She is a caring, loving, Christian woman with no criminal record.
14. Since the placement of the minor into her custody on 2nd February 2024, the child has fully bonded with her. She also understands the consequences of adoption and that it is permanent. She appreciates the role of a parent and admits she will treat the baby like her biological child. She is dedicated to providing a suitable family environment so that the child can thrive and become a fruitful member of society. I do not doubt that she has met the requirements to adopt the baby and that she will provide and promote a stable, supportive, and nurturing environment for the baby. I am guided by the case of *In re GW (Baby)* [2021] KEHC 1220 (KLR), where the court stated that:

“The Court finds that it is in the best interests of the child to make the adoption order; that the Applicants are suitable, qualified and able adoptive parents who understand the nature of the adoption process and agree to give effect to the child’s ensuing rights; and that the child and the Applicants have bonded well as a family together with the Applicants’ own biological children, and the Applicants’ extended family and friends support the adoption.”

15. On the question of whether the adoption is in the best interests of the baby, guidance can be drawn from Article 53(2) of *the Constitution* of Kenya and Section 8(1) and (2) of the Children’s Act 2022, which underscores the best interests of a child as the primary consideration before making any decision



concerning a baby. I am also guided by the decision of Nyakundi, J, in the case of In re B (Baby) [2018] KEHC 6114 (KLR), where he stated that:

“The purpose of Kenya’s Constitution and Children’s Act is to protect and promote the welfare of Children by providing them with stable family units. The fundamental concern, therefore, in every adoption cause, is the provision of the best interest of that very child...”

Therefore, I am of the view that the adoption is in the best interest of the baby.

16. The child herein was abandoned, and nobody has come forward to claim her. She is like any other child in need of parental care and guidance. She needs necessities like food, shelter, education, and clothing. She has fully integrated with the applicant. I am satisfied that the adoption application is certainly in the best interests of the child and therefore allow the application. I am guided by the case of In re R (Child) [2021] KEHC 12700 (KLR), where the court stated that:

“This is a child who was abandoned at birth. He faced an uncertain future in Children’s Homes and Institutions. This adoption affords the child the opportunity to be raised in a loving and secure home environment.”

17. The upshot of the foregoing is that the instant application has merit. Accordingly, the application is allowed with orders that:
- a. The child is hereby declared a Kenyan citizen by birth;
 - b. The consent of the biological parents or guardians is hereby dispensed with;
 - c. The applicant is authorized to adopt Baby EH, who shall henceforth be known as CW;
 - d. MPW and ANW are hereby appointed as the legal guardians of the minor in the event of any eventuality befalling the applicant;
 - e. The Registrar General is hereby directed to enter the adoption order made herein and the estimated date of birth of the child as 3rd March 2022, in the Adopted Children’s Register; and
 - f. The guardian ad litem is hereby discharged.

DATED AND SIGNED IN MOMBASA, THIS 20TH DAY OF FEBRUARY 2026. DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS.

GREGORY MUTAI

JUDGE

In the presence of:

Ms Ngugi for the Applicant; and

Ms. Bancy – Court Assistant.

