



REPUBLIC OF KENYA



In re MI (Adoption Cause E003 of 2026) [2026] KEHC 2873 (KLR) (6 March 2026) (Judgment)

Neutral citation: [2026] KEHC 2873 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
ADOPTION CAUSE E003 OF 2026
RN NYAKUNDI, J
MARCH 6, 2026
IN THE MATTER OF THE CHILDREN’S ACT 2022
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTING BY MEOO AND WWM
AND
IN THE MATTER FOR ADOPTION AND CUSTODY OF BABY MI

JUDGMENT

1. Before this court is Originating Summons expressed to be brought under part XIV and Sections 183(1) (2), 185(4)(B) & 188 of the Children’s Act, Article 14(4) of *the Constitution* of Kenya and Section 3(A) of the Civil Procedure dated 27th day of January 2026 seeking the following orders: -
 - a. That MEOO of Kenyan National Identity Card Number 21XXXXXX3 and WWM of Kenyan National Identity Card Number 30XXXXXX8 who are Kenyan Citizens, are authorized to adopt the child: Baby MI born on the 23rd day of January 2024.
 - b. That upon adoption, the child be known as DMO and be declared to be a Kenyan citizen entitled to all the rights and benefits under *the Constitution* of Kenya and all applicable laws.
 - c. That DI and SW of Kenya National Identity Card Numbers 23XXXXXX8 and 30XXXXXX3 respectively be appointed as legal guardians’ ad litem of baby MI
 - d. That, the Director of Children Services Uasin Gishu County is hereby ordered to visit the home of the applicant and present a children’s report to this court.
 - e. That, the Registrar General is directed to enter this adoption into the Register of Adoptions and subsequent Birth Certificate do issue by the Registrar of Births and Deaths.
2. The Summons is based on the following grounds on the face of it among others: -
 - a. That, the applicants are desirous of adopting Baby Mark Ivan who was a male child born on 23rd October 2024 at Turbo Sub-County Hospital.



- b. That baby MI was born to DK and JL who are purported to be half siblings; according to the parents' customs, a child of such a relationship cannot be nursed or brought up within the community.
 - c. That after the birth of the child at Turbo Sub-County Hospital, the mother decided to offer the child for adoption.
 - d. That on the 25th January 2024, Turbo Sub-County Hospital issued a letter addressed to Children's Services in Eldoret confirming the birth in the facility and the information as regards consanguinity of the parents which as per the customary expectations the child was supposed to be killed.
 - e. That, the mother of the child and the grand parents decided to leave the child at the hospital instead of taking him home. Their consent to leave the child in the hospital's care was given jointly in the presence of the Medical Superintendent and a Social Worker.
 - f. That on 26th January 2024, Turbo Sub-County Children's office reached out to Tobiah's Home in Eldoret requesting the institution to admit the child. Mark Ivan was admitted at Tobiah's Children's Home on 26th January 2024 pending committal. On 3rd February 2024, Kapseret/Kesses Sub-County Children Officer sought a committal at the Chief Magistrates Children's Court in Eldoret vide Care and Protection E002 of 2025 which was granted on 5th February 2025 for a period of three years.
 - g. That on 2nd April 2024, Tobiah Children's Home placed Baby Mark Ivan to foster parents MEOO and Winnie Wangoi Maina. The applicants were assessed and approved as foster parents by Kapseret/Kesses Sub-County Children's office. They were issued with certificate of registration as foster parents by Kesses Sub-county children's office on 23rd April 2024.
 - h. That on 23rd April 2025 the applicants approached Little Angels Network Kisumu and expressed the desire to adopt the child
 - i. That Little angels did an interview with the child's biological mother accompanied by her parents, narrated the whole ordeal which was documented by the agency, she was guided through the explanatory memorandum for Biological Parent/Guardian and the initial consent Together with her parents they all signed an initial consent dated 15th April 2025 surrendering the child willingly for adoption.
 - j. That, the Little Angels Network a registered adoption agency after further verification of all the information and documents presented to them and after holding a case committee meeting issued certificate Number 002584 declaring Baby MI free for adoption.
 - k. That, the Little Angels Network Case Committee sitting on 10th July 2025 considered the applicants herein had met all the legal and social parameters for adoption.
 - l. That, the applicants herein have undergone the post application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports and a police clearance certificates.
 - m. That, the applicants are able and willing to give Baby MI a stable loving home environment.
3. As part of the inquiry on the suitability and eligibility test, it is mandatory that the Director of Children services undertake a social investigation on the various parameters to establish whether the applicants'



application meets the threshold of being adoptive parents of the minor. In the instance case, the content and text of the inquiry report made the following key observations:

Name: WWM

DOB: 20/04.1994

Age:32 years

Nationality: Kenyan

ID NO: 30XXXXXX8

Religion: Christian

Occupation: house wife

Place of Birth: Eldoret-Munyaka

Phone Number:(+254) 715277027

Marital Status: Married

Postal Address: P.O. Box 2865 Eldoret

Physical Address: Kipkorgot Estate-Municipal-Greenvale 5PROSPECTIVE ADOPTIVE FATHER

Name: MEOO

DOB:7/01/1978

Age:48 years

Nationality: Kenyan

ID NO: 21XXXXXX3

Religion: Christian

Occupation: Business-sells fish

Place of Birth: Eldoret-Kapsoya

Phone Number:(+254)790839766

Marital Status: Married

Postal Address: P.O. Box 2865 Eldoret

Physical Address: Kipkorgot Estate-Municipal-Greenvale 5

Home Particulars

County: Uasin Gishu

Sub County: Ainabkoi

Location: Kapsoya

Estate: Kipkorgot-Municipal-Greenvale 5

Child In This Matter

Name: Baby MI

Name to be given: DMO

DOB:23/01/2024



Age: 2 years

Place of Birth: Turbo, Uasin Gishu

Initial Circumstances: mother offer

Placing Adoption Society: Little Angels Network

Date placed with applicants: 4/4/2024

Guardians Ad Litem: DI and SW

Biological children: None

Background Information Regarding The Prospective Adoptive Parent

Prospective adoptive mother: WWM

WW was born and raised in Eldoret-Cyrus area to EMN and the late RWN, her mother passed on in 2014, while her father moved to live with his other family. The applicant was raised by her mother she was closer to her than her father, though they occasionally communicate. That she never continued with her education after class 8 due to lack of fees, she moved to stay with a cousin who employed her as house help. Winnie met Michael in 2015 and started working as at Eldocity as waitress and at a Bata shop as a sales Lady. She is currently a full time mum at home and into poultry farming. The applicant is the second born in a family of 3 children, 2 brothers and the applicant all are alive. W has a good relationship with her siblings and they usually meet as a family once every end of the year. The siblings are in support of the adoption process and have always walked the journey together. Siblings 1. RS is single and runs a business in Munyaka, he also lives in Munyaka. 2. Applicant.3. VNM is single and also operates a business in Munyaka and lives there too.

Background Information Regarding The Prospective Adoptive Parent

Prospective adoptive father: MEOO

M was born and raised in Uasin Gishu county his parents are the late SDO and FAO. His father was a retired labour officer while his mother was a retired nurse, his father passed on in 1991 while the mother passed on in 2001. He shares that his relationship with the parents was good. The applicant is the 6th born in a family of 8 children, they meet every end of the year for a get together, his relationship with the siblings is good. They have supported him in this process and have visited the child.

Siblings

- a. DO she is single with 3 children and grandchildren; she is a business lady in Homa Bay.
- b. Dr. MO she is a lecturer at Moi University, she is single was blessed with one child. She lives in Eldoret-Kapsoya
- c. SAO is married and blessed with 3 children he works and lives in Nairobi. He is an Auctioneer.
- d. BKO is married with 3 children, she works and live in Belgium as an Athletic Coach.
- e. TNO is married with 5 children, he is a business man, he lives in Eldoret-Kapsoya.



f. Applicant, LO is single and has 2 children, she works as an accountant at JKUAT University. She lives in Nairobi

g. LAO is married with 5 children; she is a casual labourer in Eldoret-Cyrus
Education And Professional Background Of The Prospective Adoptive Father

M started her primary school education in Uasin Gishu at Kimalal primary and joined Kapsoya secondary school. He later joined Kenya School of Professional Studies to pursue Diploma in Information Science. The applicant is a trained Restaurant Manager; he has worked in several hotels as a manager in Eldoret. He later ventured into business in 2018; he sells fish in Kapsoya Estate a business he does with passion.

Marriage And Family

The applicants got married on 3rd August 2022, they were living in the neighboring estates and used to meet frequently. They started dating in 2016 and moved in together after a few months. Michael later visited Winnie's parents and paid dowry in 2020 and later formalized their marriage at the AG's office on 3rd August 2022. The marriage has not been blessed with a child, due to hormonal imbalance, the applicants have visited several hospitals for treatment in vain. The applicants have also shared their plans to adopt the child with their families and they are all supportive of the intentions.

Social Life

The applicants enjoy their free time together with their child, they go out together for meals and fellowship together. They are all members of Deliverance Church from childhood, they both serve in the Prison ministry, W also serves as Sunday School teacher. The family also shared that they had been weight down by the issue of not been able to have a child. W had cut links with friends and neighbors since she felt uncomfortable around them.

Their friends are her customers and a few church mates who understand their situation. They have chosen their church mates as guardian ad Litem. They have no chamas, and most of the time Winnie is in her compound with her child.

Home Environment

The applicant and the child live in a 2 bed-roomed house in Kipkorgot estate, Ainabkoi sub county, in Uasin Gishu County, 9 kilometers from Eldoret town. She lives in a 2-bed roomed house, with a sitting room, a kitchen and a toilet/bathroom. The applicant's room has a big bed for the applicant and a baby cot. The second room has one bed for visitors. The house is connected with water and electricity. The compound looked clean and well maintained. The child has enough clothes well arranged in her separate wardrobe. Within the same compound there is a poultry house, vegetable garden, pit latrine and a bathroom. The compound is secured with a perimeter wall and a live fence with a lockable steel gate. The security within Kipkorgot estate is good, there are 2 dogs which also provide security. The environment is generally conducive for the growth and development of the child.

Financial Ability

During a home visit to the applicant's place of residence on 11/02/2026, it is evident that they are financially stable and are capable of raising the child, they operate a fish business in Kapsoya Estate which fetches about Ksh. 40,000-50,000 a month. They own a car, keep 40 chicken and sell eggs the; income from poultry is Ksh. 10,000 a month while income from



the vegetable garden fetches Ksh.5000. The applicants are financially stable and has the means to adequately provide for the needs of the child.

About The Child In This Matter And If Declared Free For Adoption

Baby MI was offered for adoption by his mother. The baby was born out of incest between close cousins; he was born at Turbo Hospital on 23/01/2024 within Turbo Sub County of Uasin Gishu County. The mother and the grandmother consented to giving up the child for adoption since it was a taboo to raise such a child in the family. The baby was temporarily placed to Tobiah children home by Turbo children officer and later legally committed to Tobiah's children home at the chief Magistrates court Eldoret by the Children's officer Kapseret and later given out for foster to the applicants by the same office in partnership with Tobiahs children home who later applied to adopt him. The child in this matter was declared free for adoption by Little Angels Network adoption committee on the 07/11/2024, declaration certificate number 002584 upon the mother and next of kin signing consent certificates on 15/04/2025.

Reasons Advanced For This Proposed Adoption

During a one-on-one interview with the Applicants, they reported that they have been married for 3 yrs. and have not been blessed with a child, that they have gone to many hospitals and tried traditional medicine to no avail. The applicants have fostered the child for about 2 years and wish to legalize the process, so that they can provide the child a permanent home and a legally recognized home, continuity of care and a strong sense of belonging through adoption

Right To Inheritance

The applicants are aware that every child has a right to provision of basic needs, protection from abuse and all the other rights of the children as stipulated in section 11 of the *Children Act* and article 53 of the Kenya constitution. The prospective adoptive parents are ready to take in the adopted minor and raise him as if he was their own biological child. They are cognizant of the fact that every child has a right to inheritance in accordance with section 17 of the *Children Act, 2022* and the Kenyan law of succession; they have no objection with the child inheriting from them.

Observations

The child in this matter has been declared free for adoption by Little Angels Network. The adoption agency is a duly registered adoption society in Kenya by the National Council for Children's Services with a valid registration certificate A Social inquiry conducted by the children's officer on 11th February 2026, at the applicants' place of residence in Kipkorgot estate, Eldoret indicated that the adoptive child has bonded well with the prospective adoptive parents and looked happy, playful and social; he has also recognized the applicant as his parent and refers them as 'mum' and 'dad'. The applicant's family and friends are in total support of the process and have even appointed one of their closest friends as guardian ad litem. The family believes that the child will benefit from a loving and caring family where his rights and welfare is a priority. The applicants demonstrated that they have the financial capability to raise the child having supplied the children officer with all her financial documents and the observations made during the home visit confirms the same.

Recommendations



Your Lordship/Ladyship, the applicant in my considered view meets the requirements for adoption under section 186 (1) of the *children Act*, 2022. She has demonstrated the ability to provide basic needs for the child having successfully provided for her for over 2 years since the child was placed with them. The applicant meets the economic and social requirements considered necessary for proper parental care.

Your Lordship/Ladyship the prospective adoptive parents are 47 and 32 years old married above 25 years and are 21 years older than the child and have not attained the age of 65years thus meet the provisions of section 186 (2)(b) and (c) of the *Children Act*. The applicants have been married for 8years and Upon perusal of presented documents the children officer confirmed that the applicants have no criminal record and have been cleared by the Directorate of Criminal investigations as stipulated in the third schedule of the *Children Act*. Their medical reports confirm that they are of good health and of sound mind Your Lordship/Ladyship, The applicants have been approved to adopt the child by Little Angels Network Adoption committee and the child declared free for adoption on 7/11/2024 under adoption certificate No. 002584. The adoptive child will have a family where there is love, parental care, identity and protection. In view of these considerations, it is in her best interest that he is adopted into a family for better care and social security in accordance with section 12 (d) of the *Children Act* and article 43 (3) of *the constitution*. It is the recommendation of the Secretary Directorate of Children's Services in Kenya that final orders are granted in favour of this proposed local adoption of Baby MI to the prospective adoptive parents; MEOO and WWM, joint applicants, and his names changed to DMO

Decision

4. The children's Act of Kenya 2022 in its entirety prioritizes the best interests of the child principle focusing on welfare, safety, and upbringing over parental rights. The foundation of jurisprudence on children in Kenya draws its fountain from the rights of the child under Article 53 of *the Constitution*. The *Children Act* reinforces this principle by providing that in all actions concerning children, the best interests of the child shall be the primary consideration.
5. The plethora of rights and procedures on adoption is well spelt out in the Children's Act 2022 as reflective or as mirrored in the following provisions:

Section 185 which expressly states as follows:

- (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. Children who may be adopted.
- (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.
6. The other relevant provision towards making an adoption is Section 188 of the [Children Act](#) which provides as follows: -
 1. Where an application is made for an order, the Court shall, either of its own motion or on for purposes of application by any party to the proceedings, make an order appointing a fit person to be guardian ad litem of the child to whom the application relates.
 2. The guardian ad litem shall be under duty to—
 - (a) safeguard the interests of the child pending the determination of the adoption proceedings;
 - (b) investigate and report to the Court on the facts and circumstances relating to the adoption of the child;
 - (c) make recommendations as to the propriety of making any interim orders or an adoption order in respect of the child; intervene on behalf of the child and arrange for the care of the child in the event of the withdrawal of any consent prescribed by this Act; Children No. 29
 - (d) intervene on behalf of the child and arrange for the care of the child in the event of the withdrawal of any consent prescribed by this Act; and
 - (e) undertake such other duties as the Court may from time to time direct, or as may be prescribed by the rules.
 3. Where arrangements for the adoption of any child have been made by an adoption society, neither the society nor any member thereof shall be appointed guardian of the child in relation to the adoption.
 4. The appointment of a guardian ad litem shall expire upon the making of a final order by the Court under this Part, unless the Court, having regard to the interests of the child, extends the period of the appointment.
 5. Without prejudice to the generality of subsection (4), where an appeal is lodged against a final order of the Court made under this Part, the Court shall have power to extend the appointment of a guardian ad litem until the date of the determination of the appeal.
7. In every society, including Kenya, the principle of the best interests of the child is an indispensable concept in the protection of children. In matters of adoption, custody, guardianship, and maintenance, this concept is primarily applied in making decisions involving children. Notwithstanding that the doctrine of the best interests of the child is a widely recognized principle in the protection of children's rights, there is no generally accepted definition of the "best interests of a child." However, this legal principle largely applies in relation to family affairs and in every action concerning a child. Originally,



the doctrine had limitations in its application, as it was mainly a way of ensuring that the interests of any child involved would be taken into account in divorce and custody cases. Presently, however, this principle has been extended to apply not only in its original sense but also to all actions concerning children.

8. This is the concept is the cornerstone of enforcing the human rights involving children and should not be departed from on the pretext that there are compelling circumstances to exercise discretion otherwise. This is what the court highlighted in *Kevin Wyatt Vs Portsmouth NHS Trust* [2006] 1 FLR 554 where the court held that to determine the best of interest of the child and doing so the child's welfare is of paramount consideration.
9. In addition, *Gordon Vs Goertz*, 1996 CanLII 191 (SCC), [1996] 2 SCR. 27 the court stated that the best interests of the child test is not precise as it depends on the individual case and a more precise test would risk sacrificing the child's best interests to expediency and certainty.
10. From the application filed, the material evidence and the reports from the Little Angels Network a registered adoption agency and the Director of children's Service report dated 13th February 2026, I am persuaded that the originating summon dated 27th January 2026 is meritorious and the following orders shall abide: -
 - a. That a declaration be and is hereby made in favour of MEOO of Kenya ID No. 21XXXXXX3 and WWM of Kenya ID No. 30XXXXXX8 both Kenyan citizens be authorized to adopt the child MI born on 25th January 2024.
 - b. That a declaration be and is hereby made that by virtue of this adoption order the child be known as DNO by the application and constitution of the law be and hereby declared a Kenyan Citizen entitled to all the rights and benefits as per law established.
 - c. That a declaration be and is hereby made by DI and SW Kenyan citizens respectively to be legal guidance of MI.
 - d. That the Registrar general mandated to deal with birth and deaths in Kenya to enter this adoption order in to the register of adoptions and subsequently issue a birth certificate.
 - e. That a declaration be and is hereby made for the Director and immigration and citizenship to consider it fit when applicable to issue a Kenyan passport to the minor herein referenced as MI.
 - f. That a declaration be and is hereby made for the Deputy Registrar of the High court to extract an uneradicated version of this ruling for the benefit of the Registrar general of birth and deaths and the Director of Migration and Citizenship Services to comply with the Ruling.
 - g. There shall be no orders as to the costs
 - h. It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET VIA CTS THIS 6TH DAY OF MARCH 2026

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R. NYAKUNDI
JUDGE

