



In re Abandoned Baby alias Unknown Baby Boy N alias RH (Adoption Cause E121 of 2024) [2025] KEHC 708 (KLR) (Family) (31 January 2025) (Judgment)

Neutral citation: [2025] KEHC 708 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

ADOPTION CAUSE E121 OF 2024

PM NYAUNDI, J

JANUARY 31, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF AN ABANDONED BABY ALIAS UNKNOWN BABY BOY N ALIAS RH

IN THE MATTER OF

JMT 1ST APPLICANT

JMG 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 27th May 2024 the Applicant herein seeks the following orders, THAT:-
 - i. The Applicant be authorized to adopt Baby Boy N Alias RH a minor who is to be known as TTM and the Registrar General be directed to enter this adoption into the register of Adoptions.
 - ii. That TKG and NMR be appointed Legal Guardians of the minor who shall be presumed to have been born in Kenya.
2. The Applicants are both Kenyan Citizens they reside at Kabuko in Kiambu County. They are married and have availed copy of marriage certificate serial Number 537XXXX. They are both in gainful employment. The 1st Applicant is a driver employed by the Public Service Commission in the Ministry of [Particulars Withheld]. The 2nd Applicant is a banker employed at [Particulars Withheld] Bank in Nairobi. They have the means to provide for the needs of the child. They do not have biological children of their own.



3. They have had custody of the minor since 25th September 2023. The Child is aged 2 years and 3 months. They both understand the implications of the adoption order, they are aware that the child will have full rights as would a biological child and the order is not reversible.
4. The minor was present in Court and the Court observed that he has bonded well with the Applicants referring to them as mum and dad.
5. The minor was born at [Particulars Withheld] Level Hospital on 29th July 2022 to a female adult who registered as JN. The mother abandoned the minor on 30th July 2022. Efforts to trace the mother through her known siblings were futile as she had switched off her phone. She had also informed her sister TW that she had given birth to a baby boy at [Particulars Withheld] Hospital and abandoned him there as she had no interest in the child.
6. A report was made at [Particulars Withheld] Police Station vide OB No. 21/24/8/2022. The Social Worker at [Particulars Withheld] Hospital prepared a report confirming that the child had been abandoned and a report made to the police station. Thereafter the child was placed at Hope House Babies Home pursuant to court order issued by the Children's Court at [Particulars Withheld] through Care and Protection Case Number E018 of 2022. After their investigations the [Particulars Withheld] Police Station issued a final letter dated 16th August 2023 confirming that efforts to trace the mother were futile.
7. The Little Angels Network, by its report dated 31st January 2023, confirmed that they had assessed the Applicants and found them to be suitable adoptive parents having met the legal requirements. By report dated 6th September 2023, Little Angels Network confirmed that the child was available for adoption.
8. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant have recommended that this Court allows the Applicant to adopt the child. The Guardian Ad Litem, JAA, presented report dated 21st September 2024, in which she recommended the adoption. The Director of Children Services also submitted report dated 2nd October 2024 and after visiting and interviewing the Applicants and the minor, recommend the adoption
9. The proposed Legal Guardians, TKG and NMR both testified. They are the brother and sister in law to the 2nd Applicant. They understand what the role entails in the event circumstances demand, they will take on full parental responsibility.

Determination

12. After carefully assessing the records herein, I am satisfied that the Applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the [Children Act, 2022](#) provides. The Court may make an adoption order on application by-
 - (1) (a) Sole applicant; or
 - (b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.



- (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
13. This Court is alive to the jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) *Children Act* 2022. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, Section 8 of *Children Act* 2022 and the UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.
14. The Court has evaluated the facts of this Local Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Local Adoption as required under Section 193 of the Children’s Act, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the Children’s Act Cap 141 of the Laws of Kenya. It is evident that the Applicant has fulfilled all the legal requirements relative to the adoption of the child. The consent of the biological parents of the child was dispensed with since the child was abandoned at birth. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
15. Article 14 (4) of *the Constitution* of Kenya 2010 provides that: -
- “(4)A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by Birth.”
13. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with Orders that;
- a. The Applicants, JMT and JMG are hereby allowed to adopt Baby Boy N Alias RH.
 - b. Henceforth, the child shall be known as TTM.
 - c. His date of birth shall be 29th July 2022 at [Particulars Withheld] Level 5 Hospital.
 - d. He is presumed to be a citizen of Kenya by birth.
 - e. TKG and NMR are hereby appointed as Legal Guardians of the child.
 - f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - g. The Registrar General to enter this order in the Adoption Children Register.
 - h. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 31ST DAY OF JANUARY, 2025.

NYAUNDI

JUDGE

In the presence of:

Noel Court Assistant

Ms. Ambaka, Advocate for the Applicants

