



**In re AN (Minor) (Adoption Cause E122 of 2024)
[2025] KEHC 709 (KLR) (Family) (31 January 2025) (Judgment)**

Neutral citation: [2025] KEHC 709 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E122 OF 2024
PM NYAUNDI, J
JANUARY 31, 2025
IN THE MATTER OF THE CHILDREN ACT, 2022
AND
IN THE MATTER OF ALLAN NDERITU- A MINOR**

IN THE MATTER OF

**DKK 1ST APPLICANT
FN 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 27th May 2024 the Applicant herein seeks the following orders, That:-
 - i. The Applicants be authorized to adopt Baby AN a minor who is to be known as ANK and the Registrar General be directed to enter this adoption into the register of Adoptions.
 - ii. That EWM be appointed Legal Guardian of the minor who shall be presumed to have been born in Kenya.
2. The Applicants are both Kenyan Citizens they reside at Kikuyu town in Kiambu County. They are married and have availed copy of marriage certificate serial Number 85XXXXX. They are both in gainful employment. The 1st Applicant is an insurance agent and the 2nd Applicant is a business lady. 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 16th September 2022. The Child is aged 14 years. 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, he confirmed that he was aware that the proceedings in Court related to his Adoption. He stated that he understands what an adoption order is and he has consented to his adoption by the Applicants. It was evident to the Court that the minor has bonded well with the Applicants.
5. The minor was abandoned at Limuru Children's Office at the age of 2 by an Aunt who stated that the mother was mentally ill. After that efforts to trace the Aunt were futile. He was committed to Angel's Centre by the Limuru Law Court on 9th May 2012.
6. A report was made at Tgoni Police Station vide OB No 11/04/04/2011 and OB No 14/17/05/2022. Vide letter dated 18th July 2022, the OCS Tgoni Police Station stated that efforts to trace the parents of the Child were futile. An advert was placed in the People Daily on August 6th, 2021, announcing lost Children, no one came to claim the minor herein.
7. The Change Trust, by its report dated 26th August 2022, confirmed that they had assessed the Applicants and found them to be suitable adoptive parents having met the legal requirements. By report dated 19th July 2022, Change Trust 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*, Jackline Anyango Apondo, presented report dated 30th August 2024, in which she recommended the adoption. The Director of Children Services also submitted report dated 2th August 2024 and after visiting and interviewing the Applicants and the minor, recommend the adoption.
9. The proposed Legal Guardians, EWM testified. They are her sister and brother 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.”

16. 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, DKK and FN are hereby allowed to adopt AN.
- b. Henceforth, the child shall be known as ANK.
- c. His date of birth shall be 15th November 2009 at Limuru .
- d. He is presumed to be a citizen of Kenya by birth.
- e. EWM is hereby appointed as Legal Guardian 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.

P. NYAUNDI

JUDGE

In the presence of:

Noel Court Assistant

Ms. Ambaka Advocate for the Applicants

