



**In re Adoprion of TP (Minor) (Adoption Cause E173 of 2004)
[2025] KEHC 4832 (KLR) (Family) (28 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 4832 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E173 OF 2004
PM NYAUNDI, J
MARCH 28, 2025
IN THE MATTER OF THE CHILDREN’S ACT NO. 29 OF 2022
AND
THE CHILDREN (ADOPTION OF TP (MINOR))**

BETWEEN

HK APPLICANT

AND

LITTLE ANGELS NETWORK 1ST RESPONDENT

DIRECTOR OF CHILDREN SERVICES 2ND RESPONDENT

JUDGMENT

1. Vide Originating Summons, dated 19th August, 2024 the Applicant herein seeks the following orders, that:-
 - i. Spent
 - ii. Spent
 - iii. The Applicant HK be authorized to adopt TP (Minor) upon the making of an adoption order by this Honorable Court.
 - iv. AMK and DMK be appointed joint legal guardian (s) to TP (Minor) in the event the Applicant being the Adopter herein dies or becomes permanently incapacitated before the minor attains full age.



- v. A birth certificate and not an adoption certificate be issued by the Registrar General in respect of TP (Minor).
 - vi. This Honourable Court do issue such other orders as may deem necessary in the best interests of the infant herein.
 - vii. The costs of this Adoption process and proceedings be costs in the cause.
2. The Applicant is a single Kenyan Citizen residing in Lavington-Gitanga Road Nairobi County. She works at XXXXX Organization as a Co-Executive Officer. She has her own biological son MMK aged five (5).
 3. The child has been in Applicant's custody since 1st March, 2024. The child is 1 year 3 months old. The Applicant has the means to provide for the needs of the child. She understands that an adoption order is irreversible, she is aware that the child will have full rights as would a biological child.
 4. Baby TP (Child herein) who is the subject of the present adoption proceedings is presumed to be 1 year, 5 months old having been born on 15th October, 2023. The child was born out of incestuous relationship by one YL and JK who are first cousins. It's the Applicant's statement that upon the birth of the child at Mbagathi Hospital, the parents refused to take custody of the minor citing cultural constraints. The Hospital sought the intervention of the Kikuyu Sub-County Children's Officer to address the welfare of the minor by reaching out to Little Angel Adoption Society. Subsequently, the Adoption Society took the parents through the motion and they signed all the necessary consents.
 5. The minor was placed at New Life Home Trust pending her formal committal and adoption. The child was committed by Kikuyu Children Court through Care and Protection Case Number E 033 of 2023 pending adoption.
 6. The child was declared free for adoption by Little Angels Network Adoption Society on 31st January, 2024 as per Certificate of Freeing bearing Serial Number 24XX. Subsequently, the Applicant was found to be a suitable adoptive parent having met the legal requirements.
 7. 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*, June Mukami Kibaara, filed a report dated 28th January, 2025 stating that the child adapted well to the family set up environment, bonded well with the Applicant's son MMK, Applicant's relative as well as relating well with the adoptive parent, was well fed and taken care of hence she recommended the adoption.
 8. The Assistant Director of Children Services Ezekiel Kimani also submitted report countersigned by Mary Atati Assistant Director dated 19th February, 2025 in the report, the officer stated that the Applicant has met the requirements for adoption as provided in the *Children Act* and other enabling provisions of the law. She is medically fit and is of sound mind to take care of the minor. The Applicant is financially sound to enable her take care of the minor who has bonded well with her. She has also provided a conducive environment where the child continues to grow and develop. Since the minor's biological parents signed all the required consents, the adoption is in the best interest of the minor.
 9. The Applicant is of good health and financially capable of taking care of the child. She has no criminal record as evidenced by Police Clearance Certificate.
 10. AMK and DMK sister and brother in law to the applicant are agreeable to be appointed as legal guardians, they understand that in the event the Applicant is unable to perform her parental responsibility they will assume they responsibility hence recommended the adoption.



11. The Court observed the minor in Court and it was evident that she has a bond with the applicant and recognizes her as her mother.

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-
- (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 Applicant, HK is hereby allowed to adopt Baby TP .
 - b. Her date of birth shall be 15TH October, 2023 At Mbagathi Hospital.
 - c. The Director Civil Registration Services to issue the child with a post-adoption Certificate of Birth.
 - d. The minor be presumed to be a citizen of Kenya by birth.



- e. AMK and DMK 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 28TH DAY OF MARCH, 2025.

P. NYAUNDI

JUDGE

In the presence of:

Kanja Court Assistant

