



**In re Baby LH (Adoption Cause E191 of 2024)
[2025] KEHC 4830 (KLR) (Family) (28 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 4830 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E191 OF 2024

PM NYAUNDI, J

MARCH 28, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

IN THE MATTER OF BABY LH

IN THE MATTER OF

JKMA 1ST APPLICANT

BWWA 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons dated 4th September, 2024 by JKMA (1st Applicant) and BWWA (2nd Applicant) the following orders are sought -
 - i. That the Applicants be authorized to adopt Baby LH
 - ii. The child to be known as SBMK
 - iii. That the Registrar-General be directed to enter this adoption into the Register of Adoptions.
 - iv. That KWW be appointed as the Legal Guardian of the child.
 - v. That the child be presumed to have been born in Kenya.
2. The Applicants are husband and wife. They are Kenyan Citizens. They celebrated their marriage through a Civil Marriage on 6th August, 2016 at Thika St. Patrick’s Catholic Church in Thika, Kiambu County as per annexed Marriage Certificate Serial Number 79XX9. Their marriage had not been blessed with any children due to reasons beyond their control.
3. The 1st Applicant is an Accounting Officer in [particulars withheld] while the 2nd Applicant is a Lecturer at [particulars withheld].



4. They have lived with the minor for one (1) year 4 months. The minor is 2½ years. They understand that an adoption order is irreversible, they are aware that the child will have full rights as would a biological child.
5. The child who is the subject of the present adoption proceedings was born on 5th September, 2022 at [particulars withheld] in Kiambu County. The child was abandoned after birth by his biological mother who had registered herself as BW 30 years old. A report on the incident was made to Gatundu Police Station on 16th May, 2023 and was recorded Vide OB No. 15/09/09/2022. On the same day, the Children's Officer was informed of the incident and managed to secure a temporary placement for the child at Hope House Babies Children's Home.
6. The Magistrate Children's Court sitting at Gatundu, in accordance with Children Act, 2022 committed the child to the home on 21st November, 2022 Vide P&C No. E 031 of 2022.
7. The child was declared free for adoption by KKPI Adoption Society Certificate Freeing No. 857. The Applicants and the Home signed a care agreement dated 1st December, 2023 and the child was placed in their custody the same day for mandatory bonding prior to adoption. He has since then been in the continuous custody and care of the Applicants. According to correspondence from relevant authorities and final Police letter dated 16th August 2023, no one has come forward to claim the child since he was rescued. Thus, this Court dispenses with the consent of the child's biological parents to the proposed adoption of the child by the Applicants.
8. KWW, the proposed Legal Guardian of the minor confirmed that the 2nd Applicant is her cousin and that she understands that in the event the parents of the child are unable to perform their parental duties, she will assume responsibilities.
9. Pursuant to Section 156(1) of the Children Act, the KKPI adoption society, prepared and filed in Court a favourable report in respect of the proposed adoption of the child by both Applicants. Another report dated 14th February, 2025 in respect of the proposed adoption of the child by the Applicants was prepared by the Damaris Kobonah, Children's Officer and this report was similarly in favour of the proposed adoption as she stated that the Applicants are financially stable, medically and physically fit to take care of the child. Her observations were that the child bonded very well with the child where he acknowledges them as dad and mum. Subsequently, the Applicants have met the requirements for a local adoption and the child is available for adoption, she recommends adoption.
10. The guardian ad litem, SM, also filed the statutory report dated 30th October, 2024 in which he assessed and recommended that the child had adapted well and very attached to the Applicants therefore proposed adoption of the child by the Applicants, would be in the best interests of the child. It was also evidence in Court via online platform where the same relevant authorities consented to the adoption proceedings.
11. The Applicants are of good health and financially capable of taking care of the child as per attached as per attached Bank Statements from Co-operative Bank and Family Bank as well as their respective Title Deeds in respect of parcels of land. They have no criminal record as evidenced by Police Clearance certificates of the first Applicant and second Applicant of Serial Numbers PCC-B5XXXXX70 and PCC-50XXXXX32 respectively.
12. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the joint Applicants to adopt the child. This Court has evaluated the facts of this adoption.



13. This is a Local Adoption. It is evident that the Applicants have 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 Applicants are qualified and able to take care of the child.

Determination

12. After carefully assessing the records herein, I am satisfied that the Applicants have 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.; 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 Applicants have fulfilled all the legal requirements of a Local Adoption as required under Section 193 of the Children's Act, 2022. 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, JKMA and BWWA are hereby allowed to adopt BABY LH.
- b. Henceforth, the child shall be known as SBMK.
- c. His date and place of birth shall be 5th September, 2022 at Gatundu
- d. He is presumed to be a citizen of Kenya by birth.
- e. KWW 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 28TH DAY OF MARCH, 2025.

NYAUNDI

JUDGE

In the presence of:

Kanja Court Assistant

