



**In re Adoption of Baby JB (Adoption Cause E021 of 2025)
[2025] KEHC 7130 (KLR) (Family) (29 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7130 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E021 OF 2025
PM NYAUNDI, J
MAY 29, 2025
IN THE MATTER OF ADOPTION OF BABY JEREMMY
BARRACK
BY**

IN THE MATTER OF

**JJPM 1ST APPLICANT
HKM 2ND APPLICANT**

JUDGMENT

1. *Vide* Originating Summons, dated 28th December, 2024 the Applicants herein seek the following orders, that:-
 - i. They be allowed to adopt baby JB (hereinafter “the Child”).
 - ii. The Registrar-General do make the appropriate entries in the Adopted Children’s Register in respect of baby JB.
 - iii. AWKM be and is hereby appointed as legal guardian of JB.
 - iv. The Court does issue such other orders as may be necessary in the best interest of the child.
 - v. The costs be in the cause.

2. This is a joint adoption. The Applicants are Kenyan Citizens by birth. They are legally married and they have been living together. They solemnized their marriage on 6th October, 2001 as evidenced by marriage certificate serial number 88XX98. They are in financially stable. The 1st Applicant is a retired Military Officer while the 2nd Applicant works in the Ministry of [particulars withheld]. The minor is



- child to the Applicants' daughter hence a grandson. They have sufficient family income to enable them take good care of the child. They have other three (3) living children namely; AM, AWKM and AWM.
3. They have had custody since year 2022. The child is 3 years 4 months old. They both understand the legal 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. JB (minor herein) is presumed to have been born on 19th December, 2021 at Kibingei in Bungoma to the late SNM as evidenced by a birth certificate serial number 0022XXX512. It is said that the child was born out of wedlock. His father has never been in the child's life and his whereabouts remains unknown to the Applicants. Consequently, after the demise of the child's mother, the child was left under the care of the Applicants.
 5. Further the Applicants felt the urge of legalizing the relationship between them and the child herein so that he grows up in a normal stable family and continue raising him thus prompting Applicants' Son (AWKM) who is minor's Uncle to approach Kenya Children's Homes Adoption Society where he made clear intention of offering his nephew for adoption to his parents (Applicants herein).
 6. Subsequently, Kenya Children's Homes Adoption Society Case Committee sitting on 18th October, 2023 declared the child free for adoption. The child was declared free for adoption vide Certificate Serial Number 9X5.
 7. 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 Applicants to adopt the child. Winfred Ikinya, the Assistant Director Children Services submitted a favourable report dated 24th April 2025, during her visit she observed a child who has bonded well with the Applicants as well as their older child. She also noted that the child is healthy, well fed and clothed. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers. They are financially stable and are mentally stable. Having met all the legal requirements for Kinship adoption as stipulated in the Children Act 2022, Ms. Ikinya recommends the adoption process.
 8. GWG, Guardian Ad Litem, prepared and presented favourable report dated 15th March, 2025 in which during her visit, she observed that the child is of good health, well groomed, jovial and identifies the Applicants as his parents. She further averred that the Applicants are willing to unconditionally adopt the child as their own therefore, recommending the Applicants to adopt the child since it is in the child's best interests.
 9. AWK proposed Legal Guardian testified in Court that he is an Advocate of the High Court of Kenya. The Applicants are his biological parents. He is single without a child. He consented to be the legal guardian for the minor. He reiterated that he understands the legal implications and he will assume full parental responsibility in the event the Applicants are unable to discharge their responsibilities.
 10. The Court interviewed the minor and it was observed that he is close to both Applicants.

Determination

11. 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.
12. 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.
13. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicants have fulfilled all the legal requirements of a Kinship 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. The Court observed that the child was comfortable with the Applicants. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed. 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.”

14. 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, JJPM and HKM are hereby allowed to adopt BABY JB (hereinafter the child).
 - b. His date of birth shall be 19th December, 2021 at Kibingei in Bungoma County.
 - c. He is presumed to be a Citizen of Kenya by birth.
 - d. AWKM is hereby appointed as Legal Guardian of the child.
 - e. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue appropriate certificate.
 - g. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 29TH DAY OF MAY, 2025.

P M NYAUNDI

JUDGE



In the presence of:
Fardosa Court Assistant

