



**In re Kinship Adoption of BAA (A Minor) (Adoption Cause E281 of 2024)
[2025] KEHC 7137 (KLR) (Family) (29 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7137 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E281 OF 2024
PM NYAUNDI, J
MAY 29, 2025
IN THE MATTER OF THE CHILDREN ACT, 2022
AND
IN THE MATTER OF BADRUDIN ADEN ABDULLAHI (A
MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR KINSHIP
ADOPTION**

IN THE MATTER OF

**AAM 1ST APPLICANT
FFMN 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 9th December, 2024 the Applicants herein seek the following orders, That:-
 - i. The Applicants be authorized to adopt BAB, a minor who is to be known as BAB and the Registrar General be directed to enter this adoption into the Register of Adoptions.
 - ii. HAE And HAMM Be Appointed As The Legal Guardians of the Minor.
 - iii. The child be indicated to have been born in Kenya.
2. This is a joint Application. Applicants are both Kenyan Citizens residing in Nairobi County. They got married on 15th April 2015, under Islamic Faith law as per the annexed copy of marriage certificate serial



- Number 0077. They have been blessed with three children by names BA born on 28th December 2015, BA born on 20th April, 2020 and BA born on 1st April, 2022 as per annexed copies of birth certificates.
3. Subsequently, the 1st Applicant, is the biological father of the minor herein. The 1st Applicant took custody of the child immediately the biological mother passed away on 8th July, 2021. It is then that the 1st Applicant handed the child to the 2nd Applicant to raise him just as she was raising their biological children.
 4. The 1st Applicant is an Accountant by profession while the 2nd Applicant is a Nurse by profession. They have sufficient family income, finances and assets to enable them take good care of the child.
 5. They have had custody of the minor since birth. The minor will be 4 years old by July. 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.
 6. The minor herein (Baby BAB) is presumed to have been born on 8th July, 2021 at Mandera Referral Hospital to 1st Applicant and Asha Dahir who is deceased. The 1st Applicant took the child into his custody and together with 2nd Applicant started raising the child together with their 3 children. It is their disposition that on 8th October 2024, the 1st Applicant approached Little Angels Network with intention of relinquishing his sole legal custody of the child and instead have the same shared with 2nd Applicant. He was taken through the explanatory memorandum for parents giving their children up for adoption. It's in that point that he gave his consent on the same date and his affidavit of consent dated 9th December, 2024.
 7. Thereafter, Little Angels Network confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide certificate serial Number 00XXX3
 8. 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. This being a Kinship adoption where the child is being adopted by his biological father (1st Applicant) and 2nd Applicant (Wife) it will be the best interest of the child. The Assistant Director Children Services, Winfred Ikinya submitted a favourable report dated 21st March 2025, through her visit she noted a strong bond have developed well with the Applicants and their children. The Applicants have met all legal requirements for Kinship adoption as stipulated in the *Children Act* 2022. They are financially stable. They are mentally and socially sound. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-5GSB4WAAM respectively. The Officer recommended the adoption process.
 9. PMS, Guardian Ad Litem, presented report dated 24th March, 2025 in which during her visit, she found that the child shares a very special bond with the Applicants as well as extended family members. The child is very happy as he has gotten a sense of identity. Therefore, recommending the Applicants to adopt the child since it would be in the child's best interests.
 10. Proposed Legal Guardians (HAE And HAM) were in court and testified that 1st Applicant is their Brother – In – Law And 2nd Applicant is there Sister. They consented to be the Legal Guardians for the Minor. They understand the legal implications and they will assume full parental responsibility in the event the applicants are unable to discharge their responsibilities.



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. 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.
14. 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.”
15. 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, AAM And FMN are hereby allowed to adopt Bab.
 - b. Henceforth, the child shall be known As Bab.
 - c. His date of birth shall be 8th July, 2021 at Mandera Referral Hospital.
 - d. He is presumed to be a citizen of kenya by birth.
 - e. HAE And HAM 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 and issue appropriate certificate.



h. 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. NYAUNDI

JUDGE

In the presence of:

Ambaka for Applicant

Fardosa Court Assistant

