



REPUBLIC OF KENYA



KENYA LAW
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**In re Adoption of Baby EMK (Adoption Cause E052 of 2025)
[2025] KEHC 9243 (KLR) (Family) (27 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 9243 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E052 OF 2025
H NAMISI, J
JUNE 27, 2025
IN THE MATER OF ADOPTION OF BABY EMK
AND**

IN THE MATTER OF

IGK APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 4 March 2025, Statement in support of the Application for an Adoption Order and an Affidavit in support of the Application, seeking the following orders:
 - i. That the Applicant be authorised to adopt baby EMK, a minor who is to be known as S.B.W.K and the Registrar General be directed to enter this adoption into the Register of Adoptions;
 - ii. That N.K.G be appointed as legal guardian of the child;
 - iii. That the child be presumed to have been born in Kenya.

The Child

2. The child (female) was presumably born on 28 December 2021 with the place of birth unknown. On 28 February 2022, the child was found abandoned at Biafra Kinyago slums in Kamukunji, Nairobi and rescued by a good Samaritan. The matter was subsequently reported to California Police Station vide OB No. 27/28/02/2022.
3. The child was placed under the care of Mogra Soul Winner Rescue Centre. She was committed to the same institution as a child in need of care and protection by the Nairobi Children’s Court under Care



and Protection Number E417 of 2024. The child remained at the institution until she was placed with the Applicant on 12 August 2024.

4. Despite efforts made by California Police Station, no claims of parental responsibility were made, and all efforts to locate the child's biological parents or relatives were unsuccessful. Consequently, the child was declared legally available for adoption by KKPI Adoption Agency and a freeing certificate Number. 0935 was issued pursuant to Section 194 (1) of the *Children Act*. Therefore, I am satisfied that this legal prerequisite has been met.
5. The child was placed in the custody of the Applicant on 12 August 2024, where she has remained under continuous care and supervision.

The Applicant

6. The Applicant is a Kenyan citizen. She resides at Karen, Nairobi. The Applicant is married to NKG under customary marriage. Regrettably, they have not been blessed with any biological children.
7. Consequently, the Applicant has chosen to build a family through adoption and build a stable home for a child in need. She is committed to offering a nurturing environment, hence demonstrating a sincere intent to raise the child as her own.
8. The Applicant's husband, N.K.G, consented to the adoption.

The Adoption Application

9. I have considered the Summons, the evidence on record, as well as the various reports filed.
10. The duty of this Court is to analyse the material before it to determine whether the Applicant is a suitable adoptive parent. The Guardian ad Litem confidently states that the Applicant has equipped her home with all the necessary child-rearing essentials, reinforcing her preparedness for this responsibility.
11. The Applicant presented copies of bank statements, Police Clearance Certificate as well as various recommendations, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose that the Applicant is financially, socially, physically and mentally fit to adopt the child.
12. Additionally, pursuant to section 195 of the *Children Act*, the Applicant provided a sworn affidavit from N.K.G., consenting to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicant. The proposed legal Guardian, who is husband to the Applicant, confirmed that he understood his role and responsibilities towards the child and is ready and willing to take up the same.
13. From the material availed, I am satisfied that the Applicant is a suitable adoptive parent.

Analysis and Determination

14. The child herein was found abandoned in Kenya a few months after she is presumed to have been born. Pursuant to the provisions of Article 14(4) of *The Constitution*, the child is presumed to be a citizen of Kenya. Article 14(4) states that:

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. In deciding any matter involving a child, the court is obligated to give priority to the best interests of the child. Section 8 of the *Children Act* provides:



1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies–
 - (a) the best interests of the child shall be the primary consideration;
 - (b) the best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule;
2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to:-
 - (a) Safeguard and promote the rights and welfare of the child;
 - (b) Conserve and promote the welfare of the child; and
 - (c) Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.
16. I have considered the Reports filed by the Adoption Agency dated 5 May 2025, the Guardian ad Litem, and the Director of Children Services dated 19 May 2025, all of which were positive and recommended the adoption.
17. This child was abandoned immediately after birth and faced an uncertain future. Adoption, therefore, serves the best interests of the child by giving her a sense of identity and belonging.
18. Accordingly, I allow the Summons and make the following orders:
 - i. That the Applicant, I.G.K., is allowed to adopt the child currently identified as Baby EMK, who shall now henceforth be known as S.B.W.K;
 - ii. The child is declared to be a Kenyan citizen by birth, entitled to all the rights and privileges under *The Constitution* of Kenya and all applicable laws;
 - iii. N.K.G is appointed as the legal Guardian of the child;
 - iv. The Guardian ad Litem is hereby discharged;
 - v. The Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;

DATED AND DELIVERED IN NAIROBI ON 27 DAY OF JUNE 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Applicant: N/A

Court Assistant: Libertine Achieng.

