



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby SI (Adoption Cause E072 of 2025)
[2025] KEHC 9366 (KLR) (Family) (27 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 9366 (KLR)

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

FAMILY

ADOPTION CAUSE E072 OF 2025

PM NYAUNDI, J

JUNE 27, 2025

**IN THE MATTER OF THE CHILDRENS ACT (ACT NO. 29 OF
2022)**

AND

IN THE MATTER OF BABY SALEM ISRAEL

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY

IN THE MATTER OF

MWM APPLICANT

JUDGMENT

1. *Vide* Exparte Originating Summons, dated 7th March 2025 the Applicant herein seeks the following orders, That:-
 - i. She be allowed to adopt the child currently identified as Baby SI.
 - ii. Henceforth, the child be renamed as SA.
 - iii. The child's date and place of birth be declared to be 12th January, 2023 at Narok County Referral Hospital in Narok County.
 - iv. The child be presumed to be a Kenyan Citizen by birth; and consequently, be entitled to all the rights and benefits in respect thereof.



- v. MMW be appointed as Legal Guardian of the child, in the event that the Applicant herein is incapacitated or in any way unable to discharge her parental obligations.
 - vi. The Registrar General be directed to make the appropriate entries in the Adopted Children's Register and issue a Certificate to that effect.
 - vii. The Registrar of Births and Deaths be directed to issue a post-adoption Certificate of Birth in respect of the child.
 - viii. The Directorate of Immigration Services be directed to issue a Passport to the child.
 - ix. This Court do issue such further orders as are in the interest of justice.
2. The Applicant is a Kenyan single lady residing in Nairobi County. However, she was once married but her marriage was annulled on 11th September, 2023 as per the annexed copy by the Magistrate's Court in Divorce Cause No. E081 of 2023. She is in a gainful employment where she works as an Editor at the Parliamentary Service Commission. The Applicant is blessed with one daughter MM as per the attached copy of the Certificate of Birth Serial No. XXXXXX. The Applicant is motivated to adopt stems from her desire to serve humanity. She understands the legal implications of the adoption order as she is aware that the child will have full rights as would a biological child and the order is not reversible.
 3. BABY SI (minor herein) is presumed to have been born on 12th January, 2023 at Narok County Referral Hospital to one LW. Subsequently, the baby was referred to the New Born Unit room having been born premature and was found abandoned by his mother on 13th January, 2023 at the same hospital. Thereafter, a report was made at Narok Police Station vide OB Number 18/14/01/2023. However, the child was formally committed at the Nest Home for care and protection. Pursuant to Court Order issued by the Children's Court sitting at Narok on 6th March, 2023 *Vide* P&C File No. E 029 of 2023. Later, the Narok Police Station investigates and issued a final letter dated 1st December, 2023 confirming that efforts to trace the mother and relatives were futile.
 4. That on 10th February 2023, the Applicant approached Little Angels Network Adoption Society with intention to adopt the child. Consequently, Little Angels Network Committee sitting on 12th April 2023, prepared a declaration report and issued a Certificate declaring Baby SI free for adoption vide Freeing Certificate Serial Number XXXXXX. The minor was placed with the Applicant for the mandatory bonding on 2nd May, 2024.
 5. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicant has recommended that this Court allows the Applicant to adopt the child. This being a Local adoption where the child is being adopted by her maternal Aunt, it will be the best interest of the child.
 6. The Principal Children's Officer Ms. Harriet Kihara submitted a favourable report dated 29th May 2025, in which she observed bond between the Applicant and the minor, the Applicant is socially stable to take good care of the child. The Applicant is clear of any criminal claim as evidenced by Certificate of Good Conduct annexed XXXXXXXXXXXXXXXX. The Officer asserted that the Applicant has met the legal requirements for Local adoption as stipulated by the *Children Act* 2022 thus recommended the adoption process.
 7. Ms. DO (Guardian Ad litem) also prepared a positive report dated 8th May, 2025 recommending the Applicant to adopt the child.



8. The Applicant's daughter (MMW) was appointed to be the Legal Guardian in the event the Applicant is unable to discharge her responsibilities as she will assume full parental responsibility according to adoption orders.

Determination

9. 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-
- (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.
10. 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.
11. 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. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents signed by Applicant for this Adoption have been filed.
12. 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, MWM is hereby allowed to adopt Baby SI.
 - b. Henceforth, the child shall be known as SA.
 - c. His date of birth shall be 12Th January, 2023 At Narok County Referral Hospital In Narok County.
 - d. He is presumed to be a Citizen of Kenya by birth.



- e. MMW is hereby appointed as Legal Guardian of the child.
- f. The Registrar General to enter this order in the Adoption Children Register.
- g. The Registrar General to issue a Birth Certificate in respect of the child.
- h. The Director Immigration is authorised to issue the child with a Kenyan Passport.
- i. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 27TH DAY OF JUNE, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Mrs. Kimenyi Advocate

