



REPUBLIC OF KENYA



KENYA LAW
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**In re Adoption of Baby RAA (The Child) (Adoption Cause
E002 of 2024) [2025] KEHC 11744 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11744 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
ADOPTION CAUSE E002 OF 2024
WM MUSYOKA, J
JULY 31, 2025
IN THE MATTER OF ADOPTION OF BABY RAA
(THE CHILD)**

RULING

1. I had, on 4th October 2024, I declined to allow the Originating Summons, dated 4th March 2024, on account of the age of the applicant and on the issue of citizenship, for she was still a foreign national. I did not dismiss the Originating Summons outrightly, as I felt that these were issues that the Advocates for the applicant could address, to bring the matter within compliance, to enable the court properly exercise discretion. I gave the applicant time to decide on the next course of action, considering that she had been granted guardianship of the child in 2014/2015.
2. I, therefore, mentioned the matter on 28th November 2024, 22nd January 2025 and 2nd March 2025. Neither the applicant, nor her Advocate attended court, and I, consequently, ordered the file closed on 2nd March 2025.
3. The applicant then filed an application, dated 17th April 2025, seeking reinstatement of her Originating Summons. I allowed it on 3rd July 2025.
4. She then filed another, dated 3rd July 2025, asking exception from submitting an agency adoption report and its protection, to dispense with the mandatory maximum age of 65 had to grant orders in the best interests of the child, the subject of the proceedings.
5. She avers that she had commenced proceedings when she was aged 60, and the court at Bungoma had granted her guardianship pending her registration as a Kenyan citizen. She had applied for citizenship in 2014, but it was only approved in April 2025. She also avers that in 2014; there was a memorandum against intercountry adoptions. For that reason, she could not get a report from an Adoption Agency. She avers that the memorandum had been declared unconstitutional by the High Court in *In re LMG [Child] [2023] KEHC 18227 [KLR] [Magare, J]*. She avers that she now qualifies for local adoption as she had gained citizenship. She avers that the child would be in limbo if adoption is not allowed.



6. I see a letter from the Children’s Department, Teso North, dated 3rd June 2015, which placed the child with Sunbeam Children’s Home/Institution, which the appellant was running, and recommending the adoption of the child by the applicant. I also see a letter, dated 22nd April 2014, from Teso District Hospital, where the child was taken by the police, upon being found abandoned. I also see a Certificate of Registration of the appellant as a citizen of Kenya, dated 14th April 2025, Serial No. XXXXXXX and a letter dated 12th June 2025, withdrawing her alien card, upon her registration as a Kenyan citizen. There is also a letter from the Children’s Officer, Teso North, dated 2nd July 2025, confirming her as having recently been registered as a Kenyan citizenship, and certifying that she was a fit and proper person to adopt the child in question.
7. From the material before me, the applicant meets all the requirements, save for that on age. Given that she has now acquired local citizenship and has had guardianship and control of the child since 2014, it would be in the best interests of the child that this adoption application be allowed. To facilitate, I shall allow the exceptions and dispensations sought in the instant application, dated 3rd July 2025.
8. Consequently, I do hereby allow the Originating Summons, dated 4th March 2024, and I grant orders as follows: -
 - a. that the child herein is declared a Kenyan citizen by birth;
 - b. that the consent of the biological parents of the child is dispensed with;
 - c. that the applicant is hereby authorised to adopt Baby RAA, to be henceforth known as RAA;
 - d. that AW is hereby appointed legal guardian of the child, in the event of any eventuality befalling the applicant;
 - e. that the Registrar General is directed to enter the adoption order made herein, and the estimated date of birth of the said as 12th March 2014, in the Adopted Children’s Register; and
 - f. the guardian ad litem is hereby discharged.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 31ST DAY OF JULY 2025.

W. MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Mr. Otieno, instructed by Masiga Otieno & Associates, Advocates for the applicant.

