



**In re Baby J alias JBS (Adoption Cause E096 of 2025)
[2025] KEHC 12254 (KLR) (Family) (29 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 12254 (KLR)

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

FAMILY

ADOPTION CAUSE E096 OF 2025

H NAMISI, J

AUGUST 29, 2025

IN THE MATTER OF ADOPTION OF BABY J ALIAS JBS

IN THE MATTER OF

CS 1ST APPLICANT

ZMM 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 7 April 2025, Statement in support of the Application for an Adoption Order and Affidavit in support of the Application, seeking the following orders:
 - i. That the Applicants be and are hereby authorised to adopt the child currently known as Baby Joshua;
 - ii. That if the adoption order is granted, the said child is thereafter known as J.B.S;
 - iii. That the child’s date of birth be declared to be 16 January 2022 and his place of birth to be declared to be Kiambu County;
 - iv. That the consent of the biological parents of the child be and is hereby dispensed with since the child was abandoned;
 - v. That DMM and SK may be appointed the legal guardians of the child in the event of death of the Applicants or incapacity of the Applicants, rendering them unavailable or incapable of taking care of the child;
 - vi. That the Registrar – General be directed to make the appropriate entries in the Adopted Children’s Register



The Child

2. The child (male) is presumed to have been born on 16 January 2022. About a year later, the child was abandoned at a Shell Petrol Station in the hands of the Security Guard. The matter was reported to the Kiambu Police Station on 16 January 2023. The child was placed at Morning Star Children's Home for care and safety.
3. The child was committed to Morning Star Children's Home by the Children's Court at Kiambu on 24 October 2023 under Protection and Care file No. E003 of 2023. He remained at the home unclaimed. In their letter dated 7 March 2024, the Police indicated that their efforts to trace to the child's kin had been unsuccessful. The child was, therefore, rendered in need of an alternative family.
4. The child was declared free for adoption by the Kenya Children's Home Adoption Society on 18 September 2024 and Certificate No. 1021 was issued, pursuant to section 187(2)(a) of the [Children Act](#).
5. The child was later placed with the Applicants herein on 31 October 2024 for the mandatory bonding period prior to adoption. He has been in their care since then. The child is currently 3 ½ years old.
6. During the hearing, the Court had the opportunity to see the child. He appeared healthy, well groomed and very comfortable with the Applicants. He identified the Applicants as 'dad' and 'mom', and expressed his delight in living with them. He is enrolled at [Particulars Withheld] School, in PP1.

The Applicants

7. The Applicants are Kenyan citizens. They are a married couple. They have been married since 3 May 2012. They reside in Maringo. The 1st Applicant is a Housekeeper while the 2nd Applicant is a teacher. The 1st Applicant is 59 years old, while the 2nd Applicant is aged 46 years. They have no biological children of their own.
8. The Applicants stated that they both profess Christianity and have no criminal records. They have a desire to adopt the child because so far, they have been unable to have a child of their own.
9. The Applicants confirmed that they are financially capable of taking care of the child. The Applicants also confirmed that they understand the implications of an Adoption Order and that the same is not reversible. The purpose of the adoption for the Applicants is to grow their family, since they have not been able to have children of their own.

The Adoption Application

10. I have considered the Summons, the evidence on record, as well as the various reports filed.
11. The duty of this Court is to analyse the material before it to determine whether the Applicants are suitable adoptive parents. The Applicants stated that they are committed Christians and that they intend to raise the child in a Christian development to ensure full spiritual development.
12. The Applicants presented copies of payslips, bank statements, Police Clearance Certificates as well as recommendations from friends and family, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These demonstrate that the Applicants are financially, socially, physically and mentally fit to adopt the child.
13. Additionally, pursuant to section 186 of the [Children Act](#), the Applicants provided a letter of consent from D.M.M. agreeing to be appointed as the legal guardian of the child in the event that anything



untoward happens to the Applicants. The proposed legal guardian is a brother to the 2nd Applicant. He is married, with one child. The proposed legal guardian confirmed that he completely understands his role and what is expected of him.

14. From the material availed, I am satisfied that the Applicants are suitable adoptive parents.

Analysis and Determination

15 Article 14(4) of *The Constitution* provides 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. The child herein was abandoned in Kiambu County just a year after birth. The child is, therefore, a citizen of Kenya by birth.

16. 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;

a. 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;

a. Conserve and promote the welfare of the child; and

a. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.

17. I have considered the Reports filed by the Adoption Agency dated 12 June 2025, the Guardian ad Litem dated 15 May 2025, and the Director of Children Services dated 12 June 2025, all of which were positive and recommended the adoption. Bearing in mind that this child had been abandoned and faced an unknown future, it is my view that the adoption serves the best interests of the child. Not only will the adoption give the child a sense of belonging, but it will also give him the opportunity to grow up like every other child.

18. Pursuant to section 187(1)(a) of the Act, I hereby dispense with the consent of the biological parents since the child was found abandoned.

19. Accordingly, I allow the Summons and make the following orders:

i. The Applicants, C.S and Z.M.M are hereby authorised to adopt the child currently identified as Baby Joshua, who will henceforth be renamed J.B.S;

ii. The child is declared to be a citizen of Kenya, born on 16 January 2022 in Kiambu County and entitled to all the rights and privileges under *The Constitution* of Kenya and all other laws;

iii. D.M.M. 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 AT NAIROBI THIS 29 DAY OF AUGUST 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Applicants: Ms. Owiti

Applicants present

Court Assistant: Lucy Mwangi

