



In re Application for Guardianship to AMA PIP M (Family Miscellaneous Civil Case E009 of 2025) [2025] KEHC 11820 (KLR) (8 August 2025) (Judgment)

Neutral citation: [2025] KEHC 11820 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
FAMILY MISCELLANEOUS CIVIL CASE E009 OF 2025**

**MA ODERO, J
AUGUST 8, 2025**

IN THE MATTER OF APPLICATION FOR GUARDIANSHIP TO APM

IN THE MATTER OF

LKW APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 20th May 2025 by which the Applicant LKW seeks the following orders:-
 - “(a) Spent
 - (b) That the Applicant be appointed the legal guardian to APM (minor)
 - (c) Spent
 - (d) Any further or better order that the Honourable Court may deem fit to grant.”
2. The application which was premised upon Section 25 of the Childrens Act was supported by the Affidavit of even date sworn by the Applicant. The matter was canvassed by way of oral evidence on the virtual platform.
3. The Applicant told the court that the subject child who is a seven (7) year old boy is her ‘grandson’ being the biological child of the Applicant’s daughter GAN.
4. The Applicant stated that the child’s mother who is a single mother currently resides and works in the State of California in the United States of America. That the child has lived with and been cared for by the Applicant since the year 2022. That the child’s mother assists in the care of the child by providing financial assistance and by paying his school fees.



5. The Applicant states that she is in the supplies business and makes a comfortable living. That in the event the child's mother is unable to provide for him, she is willing to step in and take up the care of the child.
6. The Applicant now prays to be appointed as the legal guardian of the child.

Analysis And Determination

7. I have carefully considered this application for legal guardianship, the evidence adduced before the court as well as the report filed in respect thereof.
8. Section 122 (1) of the *Children Act* 2022 authorises a court to appoint a guardian for any child who is resident in Kenya whether or not the child was born in Kenya.
9. In this case the subject child is a citizen of Kenya. A copy of the child's birth certificate Serial No. XXXXXXXX indicates that the child was born in Thika, Kiambu County on 19th September 2018. The child is also resident in Kenya as he lives with the Applicant in Nyeri.
10. Both the biological parents of the child testified in this matter. PW2 ANM is the child's mother. She told the court that she currently resides and works in the USA. PW2 confirms that her child has lived with her mother in Nyeri since the year 2022. The mother confirms that she provides financial support for the upkeep of the child. She states that she has no objection to this application for guardianship.
11. The child's biological father NI also testified before the court. He too confirmed that his son lives with his maternal grandmother. PW4 told the court that his work as a businessman involves frequent travel thus he is not in a position to take up the care of the child. The father confirmed that he has no objection to this application for guardianship. He signed an affidavit dated 29th July 2025 confirming his consent to the application.
12. . In the case of David Twesigye (an infant) HCMA 004 of 2008 the court stated as follows;-

 “While the primary right of a child is to grow up under the tutelage of his or her parents, or parent for the obvious reasons of emotional attachment, if it is shown to the satisfaction of a competent authority and in this case the court that vesting legal guardianship of the child in the applicants, would solve the best interest of the child then, it would be proper for this court to make an order removing such child from the parent. The court has to weigh the emotional loss of staying with ones parents against the opportunities that would come with relocation away from the hands of the parents.”
13. In deciding upon any matter involving a child, courts are obliged to give priority to the 'best interests' of the said child. Section 8(1) of the *Children Act* 2022 provides that:-

 “(8)

 (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 priority consideration.” [Own emphasis]
14. The child herein has for the past five (5) years been under the care of the Applicant. He has undoubtedly bonded with the applicant and views her as a parental figure in his life.



15. The child's parents are both aware of and indeed have given their approval to this arrangement. Both parents consent to this application by the grandmother.
16. I was able to interact with the child virtually. He was a healthy, happy boy who appeared well cared for. The child answered basic questions about himself.
17. I have perused the children Officers Report which was filed in court on 24th June 2025. The report was favourable and no reservations were indicated.
18. Finally I find merit in this application. The same is allowed and the court makes the following orders:-
 - (1) LKW is hereby appointed as the legal guardian for Ama Pip Manyangi (a minor) until he attains the age of eighteen (18) years or unless earlier revoked or later extended by the court in accordance with the law.
 - (2) The Applicant is authorized to make all decisions concerning the child's education, medical care and external welfare as his legal guardian.
 - (3) The biological parents of the child shall have reasonable access and visitation rights to enable them maintain their relationship with the child subject to the best interests of the child.
 - (4) No orders on costs.

DATED IN NYERI THIS 8TH DAY OF AUGUST 2025

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MAUREEN A. ODERO

JUDGE

