



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**

**ADOPTION CAUSE NO. 25 OF 2015 (OS)**

**AND**

**IN THE MATTER OF THE CHILDREN'S ACT (NO. 8 OF 2001)**

**AND**

**IN THE MATTER OF CHILD S B O**

**JUDGEMENT**

1. J F F and E C R O F are a married couple of German citizenship although E C R O F is of Kenyan descent. They seek to adopt a female child, known for the purposes of these proceedings as Child S B O. They have moved the Court by their Originating Summons dated 8.7.15.
2. S B O was born on 16.7.02 at Magogoni, Mombasa to E F O who is a sister to E C R O one of the Applicants herein. When she got pregnant, E F was a Form 1 student while the father of the Child B O was in Form 3. Upon discovery of the pregnancy, he denied responsibility and abandoned E F O who was taken in by her aunt. After completion of her secondary school education she now does casual jobs for sustenance. E F O has never been able to cater for the child's basic needs and has relied on the Applicants for financial support while her aunt took care of the child. Upon the death of the aunt, the child has been living with different relatives and has no permanent abode. E F O is still not able to take care of the child as more often than not her whereabouts is unknown. She has however given her consent to the proposed adoption.
3. On 31.7.13 the child S B O was declared free for adoption by Little Angels Network a registered adoption society and a certificate declaring the child free for adoption number [particulars withheld] was issued.
4. To facilitate this adoption, the Applicants have been assessed by the Little Angels Network, the Director of Children Services and J A M, the guardian *ad litem*. The report from the adoption agency was filed in Court on the 25.8.15 while that of the Director of Children Services was filed on the 21.10.15. The guardian *ad litem* on her part filed her report in Court on 28.10.15
5. All these reports are favourable and recommend the proposed adoption. The Applicants have filed documents that demonstrate that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the Applicants. I note that this is a kinship adoption.
6. The Applicants are citizens of Germany and they propose to take the child with them to Germany. They have filed a certificate about ability to adopt from the Protestant Adoption Centre, Dusseldorf, Germany dated 29.8.13 certifying that they have legal capacity to jointly adopt a child. They have also

filed an extensive report on their suitability to adopt from the Protestant Adoption Centre dated 27.9.13. The Applicants have further filed a Confirmation from the Protestant Adoption Centre that a child adopted in the Republic of Kenya by German citizens shall acquire German citizenship as a result of a valid adoption and upon filing the application for recognition for the adoption in Germany.

7. It is the opinion of this Court that the adoption of the child by the Applicants would be in the best interests of the child. The Applicants will be able to provide a home and a family for the child to grow up in and thereafter be a useful member of the family. Consequently, the Applicants shall assume all parental rights and duties of the biological parents in respect of the adopted child. The Applicants shall treat the adopted child as if she were born to them. The Applicants has been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicant cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. I am satisfied that all the legal requirements for the adoption have been met, and I therefore make the following orders:-

- a) That the court hereby authorises the Applicants J F F and E C R O F to adopt the child S B O;
- b) The said child shall hereafter be known as S B F;
- c) That R B and M L B are hereby appointed the legal guardians of the child in the event of the untoward happening to the Applicants
- d) That the Registrar-General is directed to enter this adoption order in the adoption register;
- e) The guardian *ad litem* is hereby discharged.
- f) That the child is a Kenyan citizen by birth entitled to all the rights accruing to Kenyan citizens by virtue of the Constitution of Kenya and the Kenya Citizenship and Immigration Act, consequently the Principal Immigration Officer is hereby ordered to issue her with a Kenyan passport.

**DATED, SIGNED and DELIVERED at MOMBASA this 11<sup>th</sup> day of November, 2015.**

**M. THANDE**

**JUDGE**

**In the presence of: -**

..... **for the Applicants**

..... **Court Assistant**