



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

Adoption Cause 104 of 2005

IN THE MATTER OF ADOPTION OF INFANT L. S. – (CHILD)

P. F. and A. K. K. F..... APPLICANTS

JUDGMENT

The Applicants in this cause are of German nationality. The infant is a Kenyan child born and resident in Kenya.

It is an International Adoption and thus, from the start, I am on my extreme guard to consider this application with due care and scrutiny.

The Applicants are married in Germany on 18th March, 1986. The certificate of their marriage is duly attached as (AKKF 6), and I accept the same as the true position of their marital status. They are born respectively on 5th February, 1956 and 11th October, 1961. Their birth certificates are also annexed to the statement in support of the application for adoption. They follow Christian religion and their marriage is monogamous one.

They have three biological sons aged 19, 14 and 12 years. They have adopted a female infant from Vietnam when the husband was posted as a diplomat in Vietnam. All four children were in court and I could see them well bonded and the young sister being more conspicuous than her brothers. I was told, and I could see that they were telling the truth, that the three brothers are happy and anxious to have another sister in the family.

The father at present is Ag. Counselor General in the German consulate in Mumbai, Republic of India. The mother has a permit for four years and intend to stay in this country at least up to the end of its term in April, 2009. The husband is expected to have his posting in Kenya or around Kenya in near future. The other children are studying at the German school in Nairobi.

The father earns approximately equivalent to [Particular withheld] month – (U.S.\$8,800 per month).

With her statement the applicant has attached their certificate of conduct from the office of the Public Prosecutor General, at the Federal Supreme Court, their respective medical certificates to show that they are physically and emotionally competent to adopt a child. They have also attached the letters of

recommendation from German Ambassador Dr. Klaus Zeller as well as from their pastor Michael Wenzel. With the above referred documents they have complied with provisions of Section 158 (4) (e) as well as other requirements under Section 162 of the Children Act, 2001.

There is thus no legal impediment in their capacity to adopt a Kenyan child.

That is not all which I shall consider in any event. I have carefully read and considered the application, statements in support thereof as well as all the accompanying documents and my own queries raised.

I am told that till the father is in a foreign country as a diplomat the school fees and medical bills of all his children shall be paid by the Governments. While in Germany the education up to doctorate level and medical care are free for the citizens and residents. Thus he emphasized that, apart from his comfortable salary, there shall not be any financial strain on him by accepting the minor in the family. I also was impressed by their genuine and open response to all my queries and the impression which I gathered was that of a close knit and loving family.

The report from Director of Children Department, Child Welfare Adoption Society and the Guardian ad litem recommended this Adoption with one voice.

As against this the infant before me was an abandoned child after her birth on **[particulars withheld pursuant to section 76(5) of the Children Act no. 8 of 2001]** at **[particulars withheld pursuant to section 76(5) of the Children Act no. 8 of 2001]** . I have on record a letter from Children Department District Officer, Kisumu dated 5th August, 2004 requesting **[particulars withheld pursuant to section 76(5) of the Children Act no. 8 of 2001]** to receive her under its care. Same office wrote a letter on 22nd March, 2005 confirming that there is no claimant for the infant since the aforesaid Home admitted her. The applicant mother during her social work with the '**Help a Child**' Organization saw the infant who was very sick. During her caring, she came to love the child and decided to adopt her. The child was thus received by the family on 1st April, 2005. The application was filed on 26th July, 2005 beyond the limitation of three months under the Act. There is thus no doubt that all the formalities are as per the law and the infant is free for adoption under Section 159 of the Act.

I have considered all the relevant factors hereinbefore and stress that the infant is an abandoned child and from what, as well as, how I see her surrounded by a loving family, I am satisfied that the adoption order shall be in the best interest of the infant.

I also have a letter from '**Help a Child e. V.**' a German International Adoption Society Registered in Germany agreeing to give annual report on the infant for three years from the date of adoption.

I, in the premises aforesaid, authorize the applicants namely P. F. and A. K. K. F. to adopt the child now known as L. S. who shall henceforth be known as L. J. A. F. Her birth date is **[particulars withheld pursuant to section 76(5) of the Children Act no. 8 of 2001]** as per her birth certificate No. **[particulars withheld pursuant to section 76(5) of the Children Act no. 8 of 2001]** .

I further direct the Registrar General to make appropriate entries in the Register of Adoption.

I also further direct the Child Welfare Society to obtain annual report from '**Help a Child e.V.**' a German Adoption Society for a period of three years and copy thereof to be filed in the court.

Dated and signed at Nairobi this 9th day of June, 2006.

K.H. RAWAL

JUDGE

9.6.06