



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ADOPTION CAUSE NO. 132 OF 2015 (OS)**  
**IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2001**  
**AND**  
**IN THE MATTER OF ADOPTION OF BABY S J**  
**BY**  
**P D A C AND E C C (APPLICANTS)**

**JUDGMENT**

1. The Applicants, **P D A C** and **E C C**, are of Swedish origin and in a monogamous marriage which was solemnized at the Fryele Church, Sweden on 30<sup>th</sup> April 2005. They have one adopted child. They have brought an Originating Summons dated 21<sup>st</sup> May 2015, seeking permission to adopt **Baby S J**, an infant of male sex. **P D A C** is a Project Manager with *[particulars withheld]* while **E C C** is an Information Officer with *[particulars withheld]*. They reside in Gemina-Kilimani Nairobi.
2. The child who is the subject of this adoption proceedings was found abandoned at infancy at Githurai on 20<sup>th</sup> June 2013. He was rescued by a good Samaritan one S W W. The matter was reported at Kasarani Police Station and an entry made vide OB No. *[particulars withheld]*. On 24<sup>th</sup> June 2013 the child was admitted to Mogra Soul Winner Centre for care and protection. On 18<sup>th</sup> October, 2013 the child was officially committed to the same Children's Home by the Senior Resident Magistrate Children's Court Nairobi, vide P&C Case No. 364/2013. A letter ref no. OB *[particulars withheld]* from Kasarani Police Station confirms that no one has gone to claim or inquire after the child.
3. The child was declared free for adoption on 29<sup>th</sup> October, 2014 by the Little Angels Network Adoption Society vide certificate No. *[particulars withheld]*. He was released into the custody of the Applicants for mandatory foster care pending adoption on 20<sup>th</sup> February 2015. Since then he has been in the continuous custody and care of the Applicants. Prior to the hearing of the adoption application, Little Angels Network, an adoption Society prepared and filed a report in court.
4. The Adoption Society and guardian ad litem have all made home visits and established that the Applicants are financially and emotionally capable of providing for the up keep and education of the child. The guardian ad litem, M/s. M G filed a report that was favourable and recommended the adoption of the child by the Applicants.
5. The Director of Children's Services who cited the moratorium on foreign adoption by the Cabinet, did not file a report. The court notes however, that the Kenya National Adoption Committee, where the

Director of Children Services serves as Secretary, on 19<sup>th</sup> August, 2014 met and approved the applicants' application to adopt a child in Kenya. The decision of the committee was communicated to the Kenya Children's home by the Director of Children Services *vide* a letter dated 10<sup>th</sup> September, 2014. The decision conveyed was that the committee had found the applicants to be suitable prospective adoptive parents. A certificate of approval was duly issued to them, dated 16<sup>th</sup> September 2014, signed by, among others, the Director of Children Services.

6. The Kenya National Adoption Committee meeting held on 19<sup>th</sup> August, 2014, Swedish Ministry of Social Affairs, Children and Integration, the Division of Family Affairs, National Social Appeals Board, Central Authority in Sweden, in accordance with the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption of August 18<sup>th</sup> 2008 all confirmed that the Applicants had been approved by the Swedish authorities. According to a Communique from the said office dated 11<sup>th</sup> August, 2008 and annexed to the Originating Summons, a Kenyan adoption would be recognised immediately in Sweden and the Swedish Embassy in Nairobi will have authority to issue the child with a Swedish passport upon presentation of the adoption order. The child will at the same time obtain Swedish citizenship.

7. The proposed adoption also received local approval by the Little Angels Network Adoption Society and by the Adoption Committee meeting held on 19<sup>th</sup> August 2014 *vide* approval certificate No. **[particulars withheld]** dated 19<sup>th</sup> August, 2014. When the Director Children Services declined to provide a report to the court, an application dated 9<sup>th</sup> July 2015 was brought before the court. Upon consideration and on the basis of the best interest of the child, this court ordered in a ruling dated 25<sup>th</sup> September 2015 that the report of the Director of Children Services could be dispensed with in the circumstances of this case.

8. The child was in court during the hearing and appeared to have bonded well with the Applicants. He was jovial and clearly considered the Applicants as her parents.

9. From the foregoing I am satisfied that all the legal requirements for an international adoption have been met, and consequently I will make the following orders:

- a. That the Applicants, **P D A C** and **E C C**, are hereby allowed to adopt Baby **S J**, who shall be hereinafter known as **J D E C**.
- b. His date of birth shall be presumed to be 20<sup>th</sup> June, 2013.
- c. He is presumed to have been born in Kenya and the place of birth shall be Githurai, Nairobi.
- d. The child is presumed to be Kenyan by birth.
- e. **J E S** and **I K L S** (male Applicant's brother-in-law and sister) respectively are hereby appointed as the legal guardians of the child, should the Applicants die or become permanently incapacitated before the child attains the age of majority.
- f. The Registrar-General is directed to enter this adoption order in the Adoption Register;
- g. The Director of Immigration is hereby authorised to issue the child with a Kenyan passport.

10. The guardian ad litem is hereby discharged.

It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI this 9<sup>th</sup> DAY OF October 2015.**

**L. A. Achode**

**JUDGE**