



REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

MISCELLANEOUS CRIMINAL APPLICATION NO. 1 OF 2013

IN THE MATTER OF: THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF: SECTION 389 OF THE CRIMINAL PROCEDURE CODE

AND

**IN THE MATTER OF: AN APPLICATION FOR DIRECTION IN THE NATURE OF HABEAS
CORPUS**

AND

**IN THE MATTER OF: THE CRIMINAL PROCEDURE (DIRECTIONS IN THE NATURE OF
HABEAS CORPUS) RULES**

IN THE MATTER OF: FATMA JEYLANI MUNYE NUR IN RESPECT OF

FATMA JEYLANI MUNYE NUR AND

JEYLANI MUNYE NURAPPLICANTS

RULING

1. As noted by Muriithi J. on 18th January, 2013 the habeas corpus aspect of this matter is spent as the subject matter of the application for habeas corpus, Fatma Jeylan Munye Nur was reunited with her family on 13th January, 2013. Rather than restrict their submissions to the question of costs as directed by Muriithi J, the advocates for the parties have addressed themselves exhaustively to the question of the merit of the main application. In my considered view, to go into the merits of the said motion would constitute an academic exercise and a waste of the court's time.

2. Be that as it may, I have read through the multiple affidavits filed on either side to appreciate the nature of the dispute. It would seem that the application was prompted by the disappearance of the adolescent daughter of the applicant from the custody of her parents, who suspected that she had eloped with the respondent, an older man and her former teacher. The respondent denies this. Any responsible parent in the applicant's circumstances would have done everything possible to trace his daughter. At the same time the respondent, a seemingly old friend of that applicant's family has shown indignation at the accusation leveled against him. My view of this matter is the age old wisdom that all is well that ends

well.

3. The young girl has been traced and is safely in the parents' custody and under the apparent supervision of Muslim clergy. No order concerning costs ought to be made in the circumstances of this case for or against any of the parties.

It is so ordered.

Delivered and signed at Malindi this **6th** day of **June, 2014** in the presence of: Mr. Mwadilo holding brief for Ms. Chepkwony for the applicants, court clerk - Samwel.

C. W. Meoli

JUDGE

6-6-2014