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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION**

**FOREIGN ADOPTION PETITION NO. 35 OF 2017
WITH
JUDGE'S ORDER NO. 149 OF 2017**

1. Bal Asha Trust, Bal Asha Dham
Anand Niketan, Dr. E. Moses Road
Mahalaxmi, Mumbai - 400 011 ...Petitioner

Vs

1. Andre Bugeja, Maltese National
aged 40 yrs. Residing at 92, Triq
il-Kuluvert, Fgura, MALTA

2 Silvana Doris Bugeja, Maltese
National aged 44 yrs. Wife of Andre
Bugeja, residing at the above
mentioned address. ...Proposed adopters

.....
Mr Rakesh Kapoor for the Petitioner.
Mr O.Hareendran, Security Officer ICSW present.
.....

**CORAM : B. P. COLABAWALLA, J.
JULY 19, 2017.**

P.C.:

This is a Foreign Adoption Petition for adoption of a
male minor Pheroze alias Samuel born on 21st December, 2014

by a couple who are residents and citizens of MALTA. The said minor was admitted to the Petitioner institution on 23rd December, 2014 by his birth mother. The said minor was thereafter produced before the Child Welfare Committee, Mumbai (“CWC”) on the same day under Section 39 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and safe custody of the child was given to the Petitioner Institution as per the order of CWC dated 23rd December, 2014. Subsequently, the biological mother executed a Deed of surrender before CWC on 29th December, 2014 for the minor's rehabilitation. The representation of the Indian Counsel of Social Welfare (ICSW) is taken on record and marked “X” for identification.

2 The Child Welfare Committee, Mumbai has issued a Legally Free for Adoption order dated 23/03/2015 stating that “the biological mother has given a period of 60 days to reconsider her decision of relinquishing the above mentioned Pheroze. Till date the biological mother has not come forward to claim her above mentioned child back. The Social Worker submitted the report dated 03/03/2015. Given the above facts

and circumstances the said male child “Pheroze” aged 2 months 13 days is hereby declared legally free for adoption under Section 41 (5) (b) of the Juvenile Justice (Care and Protection of Children) amended Act, 2006 and committed to the care of Bal Asha Trust on 03/03/2015. Hence, the said male child “Pheroze” is to be rehabilitated through adoption with a suitable family”. The Free for adoption order and commitment orders are on record.

3 The undertaking/affidavit by the Petitioner is on record.

4 The Central Adoption Resource Authority (CARA), New Delhi has issued a “No Objection Certificate” dated 09/06/2017 to this adoption as per Adoption Regulations, 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption 1993. The said NOC is also on record.

5 The Proposed Adopters are Maltese nationals residing

at Fgura, Malta aged about 40 and 44 years respectively. They are married for the past 9 years (08/03/2008) with no biological children.

6 The Passport Copies of the Proposed Adopters are on record.

7 The health report dated 09/08/2016 of the Proposed Adopters states “they are medically fit and had no past serious illnesses and do not suffer from any chronic, contagious or fatal disease”. Their HIV and Hepatitis B surface antigen and Hepatitis C antibody Test Reports certify the case as Negative. These receipts are on record before me.

8 The first Proposed Adopter is working as an Assistant Administration Manager with ST Microelectronics (Malta) Ltd., Malta since 2nd August, 2000 and his annual basic salary is Euro 24,949.97. His wife is working as a Health, Safety and Welfare Section Manager with ST Microelectronics (Malta) Ltd., Malta since 21st February, 2000 and her annual basic salary is Euro

30,766.64.

9 The Income Tax certificate for the year 2015 is on record. As far as the Income Tax Certificate for the year 2016 is concerned, the same is tendered before me today and the same is marked “**X-1**” for identification.

10 The Bank References and Financial Statement are on record.

11 The Child Care Management Plan dated 5th July, 2017 by the proposed adopters is tendered before me today and is marked “**X-2**” for identification.

12 The home study report dated 26/10/2016 by the Social Worker Martine Testa and approved by the authorities of Adoption Board, Malta is on record and it states that “Both the proposed adopters have loving and supportive parents and have learnt and adopted good values from them. They are happily married and have a stable and strong relationship. They are very eager to adopt. Apart from their wish to complete their

family, the couple truly wishes to give a better life to a disadvantaged child. In view of the material gathered and information collected and in view of the couple's good family background, level of education as well as determination to complete their family, there seems to be no concerns on the couple's capabilities, skills and parental capacity to adopt a child or children between the ages of 0 and 2 years but will consider to adopt a child or children under the age of 4".

13 The Approvals from Ministry for the Family and Social Solidarity, Malta is on record.

14 The physical examination report of the minor dated 16/06/2016 states "Pheroze is currently disease free except for a nutritional anemia which is under treatment. He has near sub-normal mental and motor milestones for his age". The Proposed Adopters have countersigned this report.

15 The Report of Psychological Testing dated 13/01/2017 states "Pheroze is an affectionate and pleasant child. His overall DQ is 50% which is suggestive of significant developmental

delay. He is showing near adequate progress in gross motor, fine motor and social self help area". The proposed adopters have countersigned this report.

16 The H.I.V. report of the proposed minor dated 08/04/2015 certifies the case as non-reactive, and the same is also on record.

17 The undertakings dated 07/03/2017 by the Authorized Foreign Adoption Agency "Agenzija Tama" Malta is on record.

18 The Special Power of Attorney dated 07/03/2017 duly signed by the proposed adopters in favour of the Petitioner institution is on record.

19 The Indian Specialized Adoption Agency (Bal Asha Trust, Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period from 1.8.2014 to 31.7.2019.

20 Looking at all these documents that are before me, I

think it would be in the interest of the child if he is adopted by the proposed adopters. I, therefore, do not find any impediment in granting the reliefs sought in the Petition.

21 In view of this, the Petition is allowed in terms of prayer clauses (b) and (c) and the Judges Order is separately signed.

(B. P. COLABAWALLA, J.)