

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION**

**INDIAN ADOPTION PETITION NO. 10 OF 2017
WITH
JUDGES ORDER NO. 164 OF 2017**

SWTI, Bal Vikas Shishu Bhavan, Malad [E]	]	
Mumbai 400 097 through Ms. Prabha	]	
Dhimmar, Social Worker	]	Petitioner
Vs.		
Champak Das son of Samir Rajan Das	]	
and another.	]	Prospective Adopting parents

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Smt. Lalita Jaya Raj, for petitioner.
Mr. D. Hareendran, Scrutiny Officer (ICSW) present.
Ms. Panigrani, Managing Trustee from Bal Vikas Shishu Bhavan present.
Champak Das, adopting father present.

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CORAM : R.G. KETKAR, J.

DATE : 23RD AUGUST, 2017.

P.C.

Heard Ms. Lalita Jaya Raj, learned Counsel for the petitioner at length. Proposed adopter Shri Champak Das is also present in my Chambers.

2. This Petition proposes adoption of male minor Deepak born on 28th August, 2016. The mother had relinquished her child

before the Child Welfare Committee, Mumbai Suburban District, Mumbai [for short 'C.W.C'] on 2nd September, 2016 and the safe custody was given to the Petitioner institution Bal Vikas, Mumbai as per the order of C.W.C dated 2nd September, 2016 under section 33 (i) (a) of the Juvenile Justice (Care and Protection of Children) Act 2000 [for short 'Act']. The said order is at page 23.

3. C.W.C has issued a Certificate declaring the child legally free for adoption on 25th November, 2016 stating that;

“The biological mother was given a period of 60 days to reconsider her decision of relinquishing the minor Deepak. Till date the biological mother has not come forward to claim her child back. The Social Worker submitted the report dated 25th November, 2016. Given the above facts and circumstances the said male child Deepak aged 3 months is hereby declared legally free for adoption on 25th November, 2016 under section 41 (5) (b) and committed to Bal Vikas under section 39 (iii) (f) of Juvenile Justice (Care and Protection of Children) amended Act, 2006. Hence the said male child is to be rehabilitated through adoption with a suitable family”.

It is at page No. 24.

4. The Proposed Adopters are Indian Nationals residing at Bangalore, Karnataka both aged about 33 years. They have been married for the past 10 years (3rd February, 2007) with one biological daughter “Aishee” aged about 5 years. Motivation letter from the Prospective Adoptive Parents is at page No.5. Affidavit by the Specialized Adoption Agency (Petitioner) in support of adoption of child Deepak @ Ishan is at Pages No. 14 to 22.

Decision of Adoption Committee dated 16th June, 2017 is at Pages No. 25 to 26. The Health Report of the proposed adopters dated 29th June, 2017 is at Pages No. 74 to 77 and it states that no major abnormality detected clinically. Investigations were within normal limits. Their HIV I & II and HBsAg test reports certify the case as Negative. It is at pages No. 78 to 79.

5. The First Proposed Adopter is working as a Chief Engineer with Samsung R&D Institute India-Bangalore since August 6th 2008 and his monthly (June-2017) gross salary is 1,66,548/-[Pages No.27-28]. His wife is working as a Systems/Software Engineer with Hewlett Packard India Software Operation Private Limited, Bangalore since 9th June, 2010 and her monthly (May-2017) gross salary is 1,19,835/- [Pages. 29-30]. Income Tax Returns for the Assessment years 2014-15, 2015-16 and 2016-17 of the proposed adopters is on record [Pages. 31-36]. Copy of PAN Cards, Bank References, Property Statement and copy of Aadhar Cards are on record. It is at pages No. 37 to 43. The Child Care Plan letter from the Prospective Adoptive mother is at page 47.

6. The Home study report Part I: self assessment by the proposed adopters is at Pages 52 to 60. Part II: Assessment Report of the Social Worker of Shishu Mandir, Bangalore (date of Home visit 26th February, 2017) is at pages 61 to 64 and it states that the proposed Adopters are enjoying good health and a stable married life since 2007. They are financially sound to welcome another member into their family. They also have very good family

support to bring up their child. The Social Worker recommends them as most eligible to adopt a girl or boy under 2 years. Child Security undertaking dated 28th June, 2017 by the brother and sister-in-law of the 1st Proposed Adopter to look after the proposed minor in case of any mishap to the Proposed Adopter. It is at pages 48 to 49. Post Card Size Photograph of the family & proposed minor is at pages 50 and 51. Medical Examination of the proposed minor Deepak dated 11th January, 2017 is on record and it states "Normal child". The proposed adopters have countersigned the said report. It is at Pages 83 to 87.

7. The HIV report of the minor dated 24th December, 2016 certifies the case as Negative. It is at page No. 88. The Declaration of Willingness and Foster Care Affidavit by the Prospective Adoptive Parents is at Pages No. 65 to 68. The undertaking to send follow-up report by the authorities of Shishu Mandir Home, Bangalore is at Pages 69 to 73. The Indian Placement Agency (Bal Vikas, Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 31.3.2020.

8. The report made by C.S.W dated 27th July, 2017 submitted by O. Hareendran, Scrutiny Officer is taken on record and marked 'X' for identification.

9. Mr. Champak Das has invited my attention to;
Office Memorandum dated 5th April, 2017 issued by Central Adoption Resource Authority [for short 'CARA'] dealing with

the subject of adoption fees prescribed under Regulation 28 (1) and 46 (1) and (2) of the Adoption Regulations 2017 notified under Section 68(c) of the Act.

Memorandum is issued in continuation to Circular of even number dated 23rd March, 2017 on the said subject. Memorandum prescribes payment of adoption fees [earlier known 'CCI'] to be made by the prospective adopted parents in following installments:

(a) In-Country Adoption Fees:

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|---|---------------------|
| (i) At the time of acceptance: | Rs. 24,000/- |
| (ii) At time of handing over the Court Order: | <u>Rs. 16,000/-</u> |
| | Rs. 40,000/- |

Note: The legal fee is included in above amount and the expenditure by Specialized Adoption Agencies (SAA) on this head shall not exceed 20% of total Adoption Fees received. The ratio of payment shall also be similar i.e Rs. 4,800/- on filing of application & Rs. 3,200 after obtaining the Court Order.

(b) Inter-country Adoption Fees;

- | | |
|------------------------------|-----------------------|
| (i) At time of Acceptance | : US \$ 3000/- |
| (ii) At time of handing over | |
| the Court order | : <u>US \$ 2000/-</u> |
| Total | : US \$ 5000/- |

Note: The legal fee is included in above amount and the expenditure by SAA on this head shall not exceed 5% of total Adoption Fees received. The ratio of payment shall also be similar i.e equivalent to US \$ 150 on filing of application & equivalent to US \$ 100 after obtaining the Court Order.

3. In case of adoption from a Child Care Institution (CCI) through a SAA, the Adoption Fees shall be 50% each for the SAA & the CCI.

Memorandum recites that it is issued with the approval of Steering Committee of the Authority vide its meeting dated 31st March, 2017.

10. Mr. Champak Das also referred to the e-mail dated 1st August, 2017 sent by petitioner herein to him wherein its stated;

“I have discussed the detail with the agency and she confirmed that agency has not asked any amount. Agency will ask the lawyer in this regard and you need not pay any amount other than the adoption fee”.

11. Ms. Jaya Raj has pointed out that Chamber Summons [L] No. 97 of 2017 in Indian Adoption Lodging No. 201 of 2016 is due to come up for hearing on 28th July, 2017. In that Chamber Summons CARA is also made party and the question as regards memorandum dated 5th April, 2017 prescribing fees of CARA as also fees prescribed by this Court by the order dated 23rd November, 2016, Judges Order No. 201 of 2016 in Foreign Adoption No. 16 of 2016 is for consideration.

12. In view thereof, Mr. Champak Das suggested that he will deposit amount as prescribed by this Court in the order dated 23rd November, 2016 which shall depend upon the outcome of the Chamber Summons No. 97 of 2017. In case CARA is in position to

persuade this Court to fix fees as prescribed by its Memorandum dated 5th April, 2017, amount so deposited by him may be refunded to him along with accrued interest, if any, and in case, the Court does not modify/change the fees prescribed in its order dated 23rd November, 2016, the amount may be paid over the petitioner and legal fees to the Advocate herein.

13. In view thereof, Petition is made absolute in terms of prayer clauses (a) and (b) subject to proposed adopters depositing balance amount of 35,000/- towards;

- (i) child care corpus, child study report, medical examination report, child care and maintenance report and other administrative costs (including administrative overheads).
- (ii) legal costs of Rs. 22,500/-.

14. Amount of Rs. 35,000/- and Rs. 22,500/- shall be deposited separately with C.S Department, Prothonotary & Senior Master's office. Mr. Das assures that during the course of the day, he will deposit amount with C.S Department, Prothonotary & Senior Master office separately. Office to invest amount of Rs. 35,000/- and Rs. 22,500/- separately in a fixed deposit in any National Bank for a period of minimum days subject to further orders of the Court. Judges Order is separately signed.

[R.G. KETKAR, J.]