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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.48 OF 2017
WITH
JUDGE'S ORDER NO.187 OF 2017

Children of the World India Trust ...Petitioner

vs

1. Mr. Justin Samuel Willits and ...Proposed Adopters
2. Mrs. Sarah Nicole Willits

.....

Mr. Rakesh Kapoor, for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare,
present.

CORAM : S.C. GUPTE, J.
(IN CHAMBERS)
DATED: 4 OCTOBER, 2017

P.C. :

. Heard Mr. Rakesh Kapoor, learned Counsel for the
Petitioner and Mr. O. Hareendran, Scrutiny Officer, Indian Council of
Social Welfare (ICSW).

2. This petition proposes adoption of a female minor Jagruti.
The minor was born on 20 September 2016. She was found abandoned
by the Rebale Police Station, Navi Mumbai, and brought before the Child
Welfare Committee, Thane on 4 October 2016. The custody of the child

was given to the Petitioner Institution, which is a registered child adoption agency. The admission report of the child is placed on record.

3. The Child Welfare Committee, Thane has issued a certificate on 10 March 2017 declaring the child to be legally free for adoption, after considering the report of the social worker, the report of the concerned police station, and no objection certificate from the District Women and Child Development Department, Thane. The Petitioner's undertaking /affidavit is on record.

4. The Central Adoption Resource Authority (CARA), New Delhi, has issued its no objection on 24 July 2017, as per the applicable adoption regulations and Article 5 of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption 1993.

5. The proposed adopters are American Nationals aged about 45 and 46 years, respectively. They are married for the past 12 years and having one biological daughter aged about 10 years. The motivation letter of the proposed adoptors, their medical certificates, and the particulars of the biological daughter, including her health certificate, health record and consent, are also placed on record. The medical certificates of the adoptive parents indicate their physical and mental health to adopt the child. HIV and Hepatitis B tests are negative. The prospective father is a Partner in one Principal Claims Group (PCG) U.S.A. earning salary of over US\$ 245,000, whilst the adoptive mother is a homemaker. The requisite particulars, including the documents of

income tax, financial and bank statements, are placed on record.

6. The home study report has been made by America World Adoption, an U.S. agency, which is recognized by CARA. The report has considered at great length the motivation of the adoptive parents to adopt the child from India, their education and training as well as marital relationship. The report reflects on their cultural awareness and family background, their lifestyle, their values, their community and environment at home generally. The report also goes through the medical details, their responses concerning the proposed adoption. After going through all this material, the agency has opined favourably and recommended the proposed adoption. The requisite documents from the Embassy of the United States of America concerning the adoption and child security undertakings of near relatives of the adoptors are also placed on record.

7. As indicated on the last occasion, the medical examination report of the minor child to be given in adoption indicated a congenital heart disease. There was a request on the part of the prospective adoptive parents to conduct further investigation in this behalf. The final consent of the adoptive parents was proposed only after scrutiny of the new test reports. Based on this requisition, a blood sample of the child was sent by Jaslok Hospital to ILS, Gurgaon for Cystic Fibrosis testing. The report of the laboratory was furnished to the adoptive parents. The report of the laboratory has been countersigned and accepted by the adoptive parents, and after considering the same, the adoptive parents have indicated their final willingness to take the child

in adoption.

8. The adoptive parents have furnished a detailed undertaking, which indicates their familiarity with the medical state of the child and which records their assurance to attend to all her medical, physical and emotional needs based on their understanding of her mental and physical health.

9. The representation submitted by the ICSW, through Mr. O. Hareendran, Scrutiny Officer, dated 28 August 2007, is taken on record marked "X". The medical report of the child Jagruti dated 30 September 2017 is also taken on record, marked "X-1" for identification.

10. Considering the particulars and compliances as noted above, and after going through all the aspects of the adoption case, this Court is of the view that the petition should be allowed.

11. The petition is, accordingly, allowed in terms of prayer clauses (a) to (c). Judge's Order in this behalf is separately signed. The proposed adopters shall deposit a sum of Rs.60,000/- with the Prothonotary and Senior Master of this Court in accordance with the order of this Court.

12. The amount of Rs.60,000/- shall be refunded along with accrued interest after two years subject to the proposed adopters submitting the following documents:

- (i) Updated school reports, if available;
- (ii) Follow up Report on the adjustment of the child in her new home;
- (iii) Formal adoption confirmation from the authorities in the foreign country, and citizenship and naturalization documents;
- (iv) Report from the Indian Council of Social Welfare certifying updated scrutiny of compliance of aforementioned documents;
- (v) Health report of the child;
- (vi) Proof of investment of Rs.3,50,000/-;
- (vii) Photograph of the Child showing her progress; an audio-video clip of the child both in the school and at home, and especially in the company of other children.

(S.C. GUPTE, J.)