

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

FOREIGN ADOPTION PETITION NO. 54 OF 2017
WITH
JUDGE'S ORDER NO. 227 OF 2017**

Vatsalya Trust

...Petitioner

vs

1. Mr.Kenneth Fisher Otstot

2. Mrs.Angela Marie Otstot

...Proposed Adopters

Ms.Sangeeta A. Nagpal, Advocate for the Petitioner.

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

**CORAM : S.C. GUPTE, J.
(IN CHAMBERS)**

DATED: 1 NOVEMBER, 2017

P.C. :

Heard Ms.Sangeeta A. Nagpal, learned Counsel for the
Petitioner and Mr.O. Hareendran, Scrutiny Officer, Indian Council of Social
Welfare (ICSW).

2 This petition seeks adoption of a female minor Pari. The
minor, born on or about 15 June 2013, was found abandoned near a
temple on the Pune-Mumbai Highway at Khalapur in District Raigad. The
minor was taken charge of by Khalapur Police and admitted in the Civil
Hospital, Alibaug for treatment. The custody of the minor was given to the
Petitioner's branch at Alibaug in accordance with the order of the Child
Welfare Committee in Khalapur, District Raigad under the provisions of
Juvenile Justice Act, 2015. The minor was thereafter transferred to the
Petitioner institution as per a fresh order passed by the Child Welfare

Committee in view of its medical condition. The admission order, police report as well as the transfer order and FIR are placed on board.

3 The minor was certified to be legally free for adoption by the Child Welfare Committee, Raigad on 12 May 2017. The certificate records restoration efforts made by all concerned in accordance with the guidelines and relevant rules, despite which none approached the agency for claiming the child either as a biological parent or as a legal guardian. The certificate and undertaking / affidavit of the Petitioner in this behalf are placed on record.

4 The Central Adoption Resource Authority (CARA), New Delhi has issued its No Objection Certificate dated 24 May 2017 for the adoption. The NOC, initially issued in the name of Vatsalya Trust, Alibaug, which is a branch of the Petitioner, has been subsequently amended by a corrigendum issued by CARA indicating its no objection to the Petitioner processing the adoption of the child.

5 The proposed adopters are American Nationals residing at Ohio, U.S.A., aged 40 and 39 years, respectively. The adopters have been married for the past 10 years and have two biological sons, aged about 7 and 5 years. The birth certificates of the sons, together with the motivation letter and passport copies of the adopters are placed on record. Also placed on record is the Health Report of the proposed adopters, which shows sound physical and mental condition with negative HIV and Hepatitis B tests. The proposed adoptive parents are both working in the U.S.A. Their respective income, financial condition and property statements have been placed on record. These show their capacity to take care of the minor

proposed for adoption.

6 The child care plan declaration from the proposed adopters is also placed on record and perused by the court. Home Study report is prepared by the authorities of European Adoption Consultants, Inc., U.S.A. The report of 11 December 2015 updated on 29 November 2016 indicates the various parameters considered by the agency for assessing the suitability of the prospective adoptive parents for the proposed adoption. The report goes into various particulars such as the family background information, attitude of the prospective adoptive parents towards the proposed adoption, their background, psycho-social assessment, financial position, the description of their home and neighbourhood, their marital relationship and various other considerations from the point of parenting of the adopted child as also their preparation and training for such adoption.

7 The requisite certificate from the Embassy of the United States of America and Provisional Approval Notice dated 15/1/2016 and 1/3/2017 from the Department of Homeland Security are placed on record.

8 The medical examination report of the minor indicates a medical condition of Congenital Hyperparathyroidism. It, however, appears that since the last two years and four months, the child has had a normal mental development and physical milestones. The proposed adoptive parents have perused and countersigned the report, and issued their acceptance of the minor in adoption after such perusal. The adoptive parents have also furnished an undertaking to take care of further treatment of the child.

9 The other requisite compliances are found in order. The undertaking of the Authorised Foreign Adoption Agency “International Adoption Net” U.S.A., Power of Attorney of the proposed Adopters in favour of the Petitioner Institution & Advocate and recognition of the Indian Placement Agency are all placed on record.

10 The scrutiny report submitted by the ICSW, through Mr.O. Hareendran, Scrutiny Officer, dated 14 August 2017, is taken on record marked “X”. The corrigendum issued on 11 October 2017 tendered by learned Counsel for the Petitioner is also taken on record, marked “X-1”.

11 In view of the foregoing circumstances, and considering the compliances noted above, this Court is of the view that the petition should be allowed.

12 The petition is, accordingly, allowed in terms of prayer clauses (a), (b) and (c). A Judge's Order in this behalf is signed to that effect. 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/practice note issued by the Court.

13 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.)