

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

FOREIGN ADOPTION PETITION NO. 52 OF 2017
WITH
JUDGE'S ORDER NO.224 OF 2017**

Janani Ashish Charitable Trust

...Petitioner

vs

1. Amal Chandrakant Phadke, and
2. Lalita Indira Phadke,
wife of Amal Chandrakant Phadke

...Proposed Adopters

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: 11 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. The Petitioner is the custodian of a female minor Kimaya whose name has been changed to Uma. This petition proposes adoption of the said child. The minor was born on or about 25 November 2015 and was found abandoned by Kalyan Railway Police Station, Kalyan on 29 December 2015. The minor was admitted to the Petitioner Institution on 1 January 2016 as per the order of Child Welfare Committee, Thane of the same date under the provisions of Juvenile Justice Act, 2015 for a period of

three months. The said CWC, Thane has from time to time extended the period of commitment further by 1 ½ years vide orders dated 01/04/2016, 16/09/2016 and 17/03/2017. The Admission Order and Extension orders are placed on record.

3. The Destitute Declaration Order dated 02 August 2016 issued by the Child Welfare Committee (hereinafter referred to as “CWC”) is produced before the Court. Even after publication in newspapers, no biological parent or relative of the child has approached with any objection for claiming the child. The final report of Sr.Police Inspector, Kalyan Railway Police Station, Kalyan in this behalf is dated 09 June 2016. The Child Welfare Committee, Thane has accordingly declared the child as destitute and certified to be free for adoption.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued no objection certificate dated 10 August 2017 as per the applicable Adoption Regulations, 2017 and Article 17(c) 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 of Indian origin. They are Overseas Citizens of India Card Holders residing at Texas, USA, aged about 49 and 45 years respectively. They are married for the past 13 years with no biological children. The Medical Certificates of adoptive parents indicate sound physical and mental health and fitness to adopt the child. The HIV and Hepatitis B tests are negative. The prospective adoptive father is working as a Director in United States earning annual salary of USD 214,896, whereas the adoptive mother is working as an Enterprise IT

Architect with an American company with an annual salary of USD 130,431.00. The requisite particulars in this behalf including the documents of income tax, financial declaration and bank statements, are placed on record.

6. The home study report dated 24 April 2017 has been prepared by the authorities of “International Family Services, Texas, USA”, which is recognized by CARA. The report considers at great length the profiles of the Applicants, their lifestyle, child care perspective and psychological evaluation. After considering the physical and social environment, family preparation and psychological evaluation, the agency has recommended the Applicants to be approved for adoption of the child from India, who is healthy and is aged between 0 to 48 months.

7 The requisite documents from the Embassy of the United States of America concerning the adoption as also child security undertakings of near relatives of the adopters are also placed on record.

8. The medical examination report of the child indicates “Delayed milestones-on physiotherapy”. The Medical Report of the child along with CBC with indices & ESR and X-Ray of the Chest etc. have been perused, scrutinised and accepted by the adoptive parents. Their final willingness to take the child in adoption has been affirmed after considering this report. The adoptive parents have also furnished a detailed undertaking to complete all formalities and send the report, etc. as laid down by the court and to provide the necessary education and upbringing to the child commensurate with their status. The undertaking by sponsoring Agency “Children's House International Adoptions”, USA is also placed on record.

9. The scrutiny report submitted by the ICSW, through Mr.O. Hareendran, Scrutiny Officer, dated 29 September 2017, is taken on record marked "X". The Scrutiny Officer submits that the "Article 5" Letter from Embassy of United States and the H.I.V Test report of the proposed minor need to be submitted to the Hon'ble Court. Learned Counsel for the Petitioner tenders the said documents and the same are taken on record marked as "X-1" and "X-2" respectively.

10. Considering the particulars and compliances 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), (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.

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) 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.)