

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 51 OF 2017
WITH
JUDGE'S ORDER NO. 223 OF 2017**

Children of the World India Trust

...Petitioner

vs

1. Benjamin Paul Wissing, and

2. Lindsey Marie Wissing

...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. This petition proposes adoption of a female minor Sunaina. The minor was born on 3 October 2016. The minor was admitted to the Petitioner Institution on 2 November 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 child was born to an unmarried mentally challenged mother. The birth mother being mentally challenged and thus, unable to take care of the child, the maternal grandfather of the child relinquished the child before the Child

Welfare Committee, Thane. A Deed of Surrender was executed by the maternal grandfather on 22 January 2017 for permanent rehabilitation of the child through the Child Welfare Committee. The admission report of the child is placed on record.

3. The Child Welfare Committee, Thane has issued a certificate on 31 March 2017 declaring the child to be legally free for adoption after considering the report of the social worker and the Deed of Surrender. The certificate notes that biological parents / legal guardian were duly counselled whereafter the formal consent was obtained in the requisite legal form. The adoption order and committal order are placed on record.

4. The Central Adoption Resource Authority (CARA), New Delhi, has issued its no objection on 18 August 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 residing at Oshkosh, USA, aged about 32 and 34 years, respectively. They are married for the past 9 years with biological children, aged about 6 years (daughter) and 3 years (son). The Medical Certificates of adoptive parents indicate good physical and mental health and fitness to adopt the child. The HIV and Hepatitis B tests are negative. The prospective adoptive father is working in United States earning annual salary of USD 26,000 whereas the adoptive mother is working as Vice-President with an American company , which is a family company, with an annual salary of USD 137,000. 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 has been prepared by the authorities of “Dorinne Geldon, Evangelical Child & Family Agency, 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 training activities and psychological evaluation, the agency has recommended the Applicants to be approved for adoption of the child from India, who is healthy and has special needs. The requisite documents from the Embassy of the United States of America concerning the adoption and child security undertakings of near relatives of the adopters are also placed on record.

7. The medical examination report of the child indicates a congenital cleft lip and palate. Besides, she suffers from developmental delay due to congenital heart disease. The Medical Report of the child along with the discharge summary from the Department of Plastic, Reconstructive & Aesthetic Surgery and Echocardiography Report of LTM Medical College has 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 and summary. 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. An undertaking of the Foreign Authorized Adoption Agency is also placed on record.

8. The scrutiny report submitted by the ICSW, through Mr.O.

Hareendran, Scrutiny Officer, dated 2 October 2007, is taken on record marked "X".

9. 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.

10. 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.

11. 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.)