

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 56 OF 2017
WITH
JUDGE'S ORDER NO.236 OF 2017**

Vatsalya Trust, Mumbai

...Petitioner

and

1. Giacinto Sammarco and

2 Anna Rita Roma

...Proposed Adopters

Ms.Sangeeta A. Nagpal, for the Petitioner.

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

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

DATED: 15 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 Ananya. The
minor, born on or about 12 February 2015, was found abandoned by Pant
Nagar Police Station, Ghatkopar on 27 February 2015. Custody of the
minor was given to the Vatsalya Trust, Kanjur Marg at Mumbai in
accordance with the order dated 27 February 2015 of the Child Welfare
Committee, Mumbai Suburban District under the provisions of Juvenile
Justice (Care and Protection of Children) Act, 2000. The admission order
and the FIR from Pant Nagar Police Station are placed on board.

3 The minor was certified to be legally free for adoption by the Child Welfare Committee, Mumbai Suburban District, Mumbai on 4 December 2015. 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 No Objection Certificate dated 14 June 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. The relevant undertaking/affidavit of the Petitioner is placed on record.

5 The proposed adopters are Italian Nationals residing at Rome, Italy, aged about 50 and 49 years, respectively. They are married for the past 17 years with no biological child. However, they have one adopted son “Daksh”, aged about 11 ½ years from Panaji, Goa. The birth certificate of the son, together with the Adoption Decree, Passport copy, Motivation letter and passport copies of the proposed adopters are placed on record. Also placed on record is the Health Report of the proposed adopters, which shows sound physical and mental condition. The proposed adoptive parents are both working in the Rome. 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 arrangement from the proposed adopters is also placed on record and perused by the court. Home Study report conducted by “Famiglia insieme Onlus” Italy, is placed on record. The report of 25 June 2015 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 Decree of Eligibility to Intercountry Adoption from the Juvenile Court of Rome and Adoption Guarantee Letter issued by the Commission for Intercountry Adoption issued on behalf of the Government of Italy are placed on record.

8 The medical examination report of the minor indicates “No abnormality detected. Mild Global Development delay”. It, however, appears that the child has had since last one year a slightly delayed mental development. The H.I.V report of the proposed minor certifies the case as Negative. The proposed adoptive parents have perused and countersigned the examination report, and conveyed 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 “Famiglia insieme Onlus, Power of Attorney of the proposed Adopter in favour of the Petitioner Institution 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 22 September, 2017, is taken on record marked “X”. The HIV Reports and the declaration of willingness of Adoptive parents are marked as “X-1” and “X-2” respectively.

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.)