

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

FOREIGN ADOPTION PETITION NO. 57 OF 2017
WITH
JUDGE'S ORDER NO. 245 OF 2017**

Children of the World India Trust ...Petitioner
and
1. Richard Bryan Heaton and
2 Kristiana Elizabeth Lund-Heaton ...Proposed Adopters

Mr. Rakesh Kapoor, for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare,
present.

CORAM : S.C. GUPTA, J.
(IN CHAMBERS)

DATED: 17 NOVEMBER, 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 seeks adoption of a female minor Anila. The minor, born on or about 30 April 2016, was found abandoned by Ganeshpuri Police Station, Thane. Custody of the minor was given to the Petitioner institution Vishwabalak Kendra, Nerul, Navi Mumbai in accordance with the order dated 13 June 2016 of the Child Welfare Committee, Mumbai Suburban District under the provisions of Juvenile Justice Act, 2015. Thereafter the minor was produced before the Child Welfare Committee, Thane on 16 September 2016 and the child's custody

was continued for further six months under section 31 (4) of the Juvenile Justice Act, 2015. The CWC has also extended the period of commitment by further six months by their order dated 17 March 2017. The relevant admission and the extension orders are placed on board.

3 The minor was certified to be legally free for adoption by the Child Welfare Committee, Thane by a certificate dated 17 March 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 Free for Adoption Order is placed on record. The undertaking/affidavit by the Petitioner in this behalf is also placed on record.

4 The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 29 September 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 No Objection Certificate is placed on record.

5 The proposed adopters are American Nationals residing at Virginia, U.S.A, aged about 46 and 42 years, respectively. They are married for the past 22 years with no biological child due to medical reasons. The Motivation letter, Infertility Certificate and passport copies of the proposed adopters are all 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 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 arrangement from the proposed adopters is also placed on record and perused by the court. Home Study report conducted by “America World Adoption” U.S.A, is placed on record. The report of 15 February 2017 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. The report further goes into potential emotional, developmental, behavioral, academic, social and medical issues that may arise after adoption. The proposed Adopters understand and accept the potential risks and delays that occur in an international adoption. The report recommends the proposed adopters for adoption of one male or female child with special needs. The Proposed Adopters demonstrate mental preparedness, willingness and stability that is in the long-term interest for a child with special needs.

7. The requisite certificate dated 28/08/2017 from the Embassy of the United States of America and the child security undertaking dated 05/07/2017 by the 2nd Proposed Adopter's sister and brother-in-law to take care of the minor in case of any unforeseen mishap to the Proposed

Adopters are placed on record.

8 The medical examination report of the minor indicates cleft lip and palate operated in February 2017. She is also having ear discharge. The description of the mental development of the child describes 'Normal physical and mental development'. The H.I.V report of the proposed minor certifies the case as Non-Reactive. 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 All other requisite compliances are found in order. The undertaking of the Authorised Foreign Adoption Agency "America World Adoption, U.S.A", General 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 23 October, 2017, is taken on record marked "X".

11 In view of the above and considering the compliances noted above, this Court is of the view that the petition deserves to be allowed.

12 The petition is, accordingly, allowed in terms of prayer clauses (a), (b) and (c). A separate 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 to ensure post adoption compliance.

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.)