

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

IN ITS GENERAL AND INHERENT JURISDICTION

**JUDGE'S ORDER NO.230 OF 2018
IN
FOREIGN ADOPTION PETITION NO.43 OF 2018**

In the matter of the Juvenile Justice
(Care and Protection of Children) Act,
2015 (No.2 of 2016)

And

In the matter of the Adoption of
female minor Eliana Bhumi Holmes,
and male minor Mayank @ Robert
Aaro Mayank Holmes an inmate of Bal
Asha Trust, Bal Asha Dham, Anand
Niketan, Dr.E.Moses Road, Mahalaxmi,
Mumbai-400 011.

Bal Asha Trust, through Sunil Kumar Arora)
Executive Director)...Petitioner

V/s.

Robert Patrick Holmes III, American)
and Anr.)...Proposed Adopters

Mr.Rakesh Kapoor for petitioners.
Mr.O.Hareendran, Scrutiny officer, ICSW present.

**CORAM : K.R.SHRIRAM,J
DATE : 19.12.2018**

P.C.:-

1 This petition proposes for adoption of female minor Bhumi,
born on 09/09/2014 and male minor Mayank, born on 29/01/2017.
They were surrendered by the biological parents before the Child

Welfare Committee, Mumbai City II on 15/02/2017 and 04/02/2017 respectively, and the children's safe custody was given to the Petitioner-institution Bal Asha Trust, Mumbai as per the orders of Child Welfare Committee, Mumbai City II dated 15/02/2017 and 04/02/2017 respectively, under section 31 Juvenile Justice (Care and Protection of Children) Act, 2015.

2. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the Child Welfare Committee, Mumbai City II declared the proposed minors BHUMI and MAYANK "Legally Free for Adoption" as on 09/05/2018.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 13/11/2018 to this adoption as per 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 Proposed Adopters who are American nationals residing at Tennessee, USA aged about 31 years and 29 years respectively, have been married for the past 8 years (01/01/2011) with no biological children. The Passport Copies of the proposed adopters are on record.

4. The health reports dated 07/08/2018 of the Proposed Adopters is on record and it states, "No physical, mental or psychological elements of the applicants which will affect the raising of a child". Their HIV and HbsAg test Reports certify the case as Negative.

5. The first Proposed Adopter currently manages his real estate investments and his annual gross income is US Dollar 45,616. His wife is working as a Chief Executive Officer with Marriage Helper Inc. since August 2012 and her annual income is US Dollars 99,999. The Income Tax Returns for the Years 2015, 2016 and 2017 are on record. They have filed their Financial Statement and Monthly income & expenditure statement and also Childcare Arrangements Plan by the Proposed Adopters.

6 There is also home study report dated 04/03/2018 done by the authorities of "Catholic Charities", USA and it states, "The Holmes family appears to be capable and loving family with a strong marriage. The adoptive family has an adequate financial resources to add a child to their family. The couples have displayed high moral and ethical character. They are committed to raising their children to have strong morals and ethical integrity as well. The agency who conducted the

home study approves and recommends the Holmes family for the adoption of up to two male or female children, age 0-6 with mild to moderate special needs from India”.

7 The pre-adoption psychological evaluation report of the proposed adopters dated 25/01/2018 is on record and it states, “None of the available information raises concerns about the Holmes’s ability to successfully parent one to three children with identified special needs. Neither has a history of severe or persistent mental illness and neither is experiencing significant psychological distress at this time”. The “Article 5” Letters dated 19/09/2018 from Embassy of United States of America and Approval Notice dated April 20, 2018 from U.S. Citizenship and Immigration Services are on record. There is also the child security undertaking dated 07/08/2018 from the Sister and brother-in-law of second proposed adopter to look after the proposed minor in case of any unforeseen mishap to the Proposed Adopters.

8 The physical examination report of the minor Bhumi dated 26/04/2018 states “Bhumi has Borderline developments delay with a DQ of 70. She needs prescription glasses for her refractory error. Otherwise, Bhumi is currently disease free”. The Proposed Adopters have countersigned this report along with psychological testing, occupational therapy and language, speech and hearing reports.

9 The physical examination report of the minor Mayank dated 17/05/2018 states “Mayank was found to be HIV antigen and antibody positive by the CMIA method on 21/07/2017. However, testing with PCR for HIV-1 DNA is negative which confirms that the child is NOT infected with HIV. Mayank’s overall DQ is 60% indicating developmental delay due to institutionalized”. The Proposed Adopters have countersigned this report along with HIV Test Reports.

10 The H.I.V. report of the proposed minor Bhumi dated 28/02/2017 certifies the case as non-reactive. The H.I.V. report of the proposed minor Mayank dated 03/05/2018 certifies the case as Negative.

11 As regards the change of name, the prospective adoptive parents desire that the minor ‘Bhumi’ be renamed as “Eliana Bhumi Holmes” and ‘Mayank’ be renamed as “Robert Aaro Mayank Holmes”, respectively. There is Joint Declaration of willingness and undertakings of proposed adopters and also undertakings dated 15/08/2018 by the Authorized Foreign Adoption Agency “Children of the World”, Alabama, U.S.A. The proposed adopters have also signed the General Power of Attorney in favour of petitioner-institution.

12. I have considered the petition, annexures thereto and the report of the Scrutiny officer of Indian Council of Social Welfare (ICSW) dated 8.12.2018 is taken on record and marked "X" for identification.

13. Documents being in order, Petition allowed. Judge's order signed separately.

(K.R.SHRIRAM,J)