

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

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 29 of 2019.
WITH
JUDGE'S ORDER No. 134 of 2019
IN
INDIAN ADOPTION PETITION No. 29 of 2019.

1) Santosh Krishna Sadvilkar
2) Supriya Santosh Sadvilkar **...Petitioners.**

And

1) The Chairperson,
Chief Welfare Committee,
Mumbai Suburban District
Mankhurd, Mumbai 400 088

2) Diya Santosh Sadvilkar (minor girl) **...Respondents.**

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Ms Susan Abraham a/w Narayan Babu Suvarna, Advocate
for the Petitioners.

Mr O. Hareendran, Officer of ICSW present.

Mr. S.A. Jadhav Chairperson, CWC, Mumbai Suburban (1)
respondent No.1 in-person.

Mr. Shanay Shah a/with Ms. Vinodini Srinivasan and Ms.
Tanya Barwal I/by Keystone Partners for respondent Nos. 2.

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CORAM : B. P. COLABAWALLA, J.
DATED :- 30th AUGUST, 2019.

P.C. :-

1. When this matter had first come up on 2nd May, 2019 there was no latest Home Study Report and in these circumstances the petitioners sought leave to implead the Child Welfare Committee, Mumbai Suburban District as a respondent. Pursuant thereto, the Child Welfare Committee has been added as a respondent to the petition.

2. Thereafter, the matter came up on 6th June, 2019 when the Child Welfare Committee was represented through an Advocate who stated that they are in the process of writing to the District Child Protection Unit (DCPU) to conduct and give a latest Home Study Report in this matter. It was in these circumstances, the matter was stood over to 11th July, 2019. Thereafter, when the matter was on board on 25th July, 2019, the learned Advocate appearing for the petitioners sought four weeks time to invite objections of any person to this adoption in the local newspapers at Kolhapur. I am informed that the said advertisement has also been published on 1st August, 2019 in "Punya Nagari" and "Times of India" Kolhapur Edition. In support of this petition, the learned Advocate for the petitioners has tendered a compilation of documents, which compilation is taken on record and marked "X1" for identification.

The final representation from the Indian Council of Social Welfare dated 30th August, 2019 is also tendered before me and is taken on record and marked “**X2**” for identification.

3. This Indian Adoption Petition has been filed for adopting a female minor Divyata to a married mother born on 17th April, 2015 at Holy Spirit Hospital, Andheri (East), Mumbai. The minor child was produced before the Child Welfare Committee (**CWC**), Mumbai Suburban District on 28th April, 2015 by the Institution of Shantinagar Social Service Society (Shelter Home for Distress Women), Andheri, Mumbai for the child's safe custody and protection. The said CWC handed over the said minor to the petitioners herein for foster care. The Foster Care undertaking dated 28th April, 2015 jointly signed by the petitioners, Chairperson and two members of the CWC is at Sr. No.4 compilation tendered today and marked “**X1**” (for short the “said compilation”). The birth report of the minor from Holy Spirit Hospital, Andheri Mumbai can also be found at Sr. No.2 of the said compilation.

4. After making due enquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC declared the proposed minor **Divyata** legally free for

adoption as on 5th February, 2018. The Free for Adoption Certificate can be found at Sr. No.9 of the said compilation. In addition to the aforesaid, as per the directions of this Court, the petitioners have also published a public notice in the Marathi newspaper “Punya Nagari” Kolhapur and English Newspaper “Times of India” Kolhapur on 1st August, 2019. The said public notices can be found at Sr. Nos. 27 and 28 of the said compilation.

5. The prospective adoptive parents (the petitioners herein) are residing at Jogeshwari (East), Mumbai, aged about 50 and 43 years respectively. They have been married for the past 21 years (27th February, 1998) with no biological children. The family photograph of the prospective adoptive parents is also on record at Sr. No. 16 of the said compilation. The motivation letter from the proposed Adopters is also on record as part of Sr. No.29 which states that they have tried to conceive a child as well as undergone alternative methods like fertility treatment etc., without any success. Despite all these efforts they were unable to conceive a child and hence decided to go for adoption.

6. The Shelter Home Shantinagar has also placed on record an affidavit cum declaration dated 1st April, 2016 which can be found

at Sr. No.6 of the said compilation. The medical report of the prospective adoptive parents dated 4th May, 2019 is at Sr. No.19 of the said compilation and it states that the prospective adoptive parents are physically and mentally fit and their HIV and Hepatitis B test reports certify the case as negative.

7. As far as the financial condition of the prospective adoptive parents is concerned, the prospective adoptive father is self-employed (contracts of civil and interior work and the proprietor of Diya Interior Decorator) since 2000 and his income for the Assessment Year 2018-19 is Rs.3,14,716/-. His Tax Return for the Assessment year 2018-19 is at Sr. No. 32 of the said compilation. The prospective adoptive mother is a homemaker. The copy of PAN card, proof of residence (copies of Aadhar Card) and other supportive financial documents can be found as part of Sr. Nos. 29 to 31 of the said compilation.

8. The Home Study Report Part I, namely, self assessment by the prospective adoptive parents is on record at Sr. No.22. The Home Study Report Part II of the District Women and Child Development Officer Mumbai Suburban District Mumbai is a part of Sr No.22 which denotes that the said Officer made a home visit on

13th June, 2019. The said report states that the prospective adoptive parents are well prepared for this adoption and lead a comfortable life. The proposed minor Divyata is living with the adoptive parents for the last four years and appears to be well adjusted. The adoptive parents are balanced individuals equipped to take care of the minor and they have a very good capacity to bring up a child. After all assessment, the said Officer is of the view that the prospective adoptive parents are matured and cultured. Their social status and also their economic and financial position is good and hence deserve to have a child by way of adoption. Apart from all these documents, reference and recommendation letters from the friends of the petitioners supporting them for this adoption is also at Sr.No.17 of the said compilation, which inter alia, supports the decision of the petitioners for the adoption of the minor.

9. The child security undertaking dated 8th April, 2019 has also been executed by the sister and brother-in-law of the prospective adoptive mother residing at Airoli, Navi Mumbai to look after the proposed minor in case of any mishap to the prospective adoptive parents. This child security undertaking can be found at Sr. No.14 of the said compilation.

10. The Medical Certificate of the said minor dated 4th May, 2019 is on record at Sr. No.19 and inter alia states that she is physically and mentally fit. Similarly, the HIV report of the proposed minor dated 3rd May, 2019 certifies the case as negative. This report also is a part of Sr. No.19 of the said compilation.

11. As regards the change of name, the prospective adoptive parents desire that the minor Divyata be renamed as **“Diya Santosh Sadvilkar”**. It is accordingly so ordered.

12. A joint consent and willingness by the prospective adoptive parents are on record and it states that they are willing to be appointed or declared adoptive parents of female minor Divyata born on 17th April, 2015. There is also on record an undertaking dated 22nd July, 2019 from the Authorities of the District Women and Child Development Officer, Mumbai Suburban District for furnishing post adoption follow-up reports. This undertaking can be found at Sr. No. 23.

13. The prospective adoptive parents (the petitioners) are

present before me and have undertaken to this Court that they shall create a fixed deposit in the sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) in the name of minor until she attains the age of majority. The said undertaking is accepted.

14. Having gone through the records of this Adoption Petition and looking at all the documents that have been placed before me, I think it would be in the interest of child that she is adopted by the prospective Adopters. I therefore find no impediment in granting the reliefs sought in the petition.

15. In view of the foregoing discussion, the petition is allowed in terms of prayer clauses (a) to (d) and which read thus :-

(a) That the petitioners be given the minor girl child Diya in adoption and be declared as parents and have all parental legal rights, privileges and responsibilities over the said minor girl child **“DIYA SANTOSH SADVILKAR”**, born on 17.04.2015;

(b) That the petitioners may be granted leave to remove the said minor girl child from the jurisdiction of this Hon'ble Court and to take the said minor girl child out of the jurisdiction of this Hon'ble Court whenever required;

(c) That the concerned Municipal authority/birth certificate issuing Authority may be directed to issue

birth certificate in the name of the said minor girl child **"DIYA SANTOSH SADVILKAR"** born on 17.04.2015 and stating thereon that the petitioners as the parents of the said minor girl child; and

(d) That the petitioners be allowed to change the name of the minor girl child from DIVYATA to **DIYA SANTOSH SADVILKAR** born on 17.04.2015.

16. The Judge's Order to this effect is also separately signed.

17. It is directed that the respondent shall obtain a further undertaking from the adoptive parents that they shall not give the minor child for further adoption without the prior leave of this Court. Once this undertaking is obtained, a copy of the same shall be filed on the record of this Court.

18. The Adoption Petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)