

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 28 of 2019

WITH

JUDGE'S ORDER No. 93 of 2019

MSWC Asha Sadan Balgruh

..Petitioner

Vs

Mr Mandar Kulkarni & Anr

Prospective Adoptive
Parents.

Ms. Varsha Bhogle for the Petitioner.

Mr. O. Harendran, Scrutiny Officer of ICSW

Mr. Mandar Kulkarni and Mrs.Minaz S.
Kulkarni, proposed adoptive parents are
present.

CORAM : B. P. COLABAWALLA, J.

DATED :- 6th June, 2019.

P.C. :-

1. This Adoption Petition is for the adoption of a female minor Avantika @ Owi Mandar Kulkarni born on 23rd August, 2018 by Indian Nationals (hereinafter referred to as “the proposed Adopters”). The biological mother of the said Avantika executed a Deed of Surrender before the Child Welfare Committee on 24th September, 2018 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “Juvenile Justice

Act”) for the child's permanent rehabilitation. Prior thereto, the minor Avantika was admitted to the petitioner institution on 31st August, 2018, as per the order of the Child Welfare Committee dated 4th September, 2019 under Section 36 (i) of the Juvenile Justice Act, 2015 read with rule 18 (4) of the Model Juvenile Justice Rules, 2016. The representation of Indian Council of Social Welfare (ICSW) is taken on record and marked “X” for identification.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, the Child Welfare Committee declared the proposed minor Avantika legally free for adoption) as on 15th December, 2018. The free for Adoption Order is on record.

3. It has been stated before me that the proposed Adopters are residing at Kolhapur (Maharashtra) and are aged about 38 and 33 years respectively. They have been married for the last 13 years (18th January, 2006) with no biological children. The Family Photograph is also on record. The Motivation Letter from the proposed Adopters is also on record which states that both the proposed Adopters are post Graduates and are working together for their own companies and are financially well off. They have stated that before their marriage they had decided that irrespective of

whether they have their own biological child, they would be adopting at least one girl child. In these circumstances, they have decided to adopt the minor Avantika.

4. The decision of the Adoption Committee dated 12th April, 2019 is on record which has stated that the proposed Adopters are suitable to adopt Avantika. Affidavit of the Chief Functionary of the Specialized Adoption Agency (petitioner) is also on record.

5. The Health Report of the prospective adoptive parents dated 15th April, 2019 is on record. It states that the health of the prospective adoptive parents does not disqualify them in parenting the child in any way. Their HIV I & II and Hepatitis “B” test reports certify the case as Negative.

6. The adoptive father is self-employed (Partner of Greyhound Industries, MIDC, Kolhapur) and his income for the Assessment Year 2018-19 is Rs.11,57,834/-. His Tax Returns for the Assessment Year 2018-19, 2017-18 and 2016-17 are also on record.

7. As far as the prospective adoptive mother is concerned, she, too, is self employed (Partner of Navrang Powder coating, MIDC,

Kolhapur and Proprietor of Karmik Steel Furniture, Kolhapur). Her income for the Assessment Years 2016-17, 2017-18 and 2018-19 are also on record. In support of the above, the PAN Card, Aadhar Card, Proof of residence, property documents and other supportive financial documents are also annexed to the petition. The childcare arrangement undertaking is also on record.

8. The home study report Part I, Self Assessment by the prospective adoptive parents is on record at page no.141 to 145 of the petition. The Assessment Report of the Social Worker of Shishu Grah Kolhapur (Maharashtra) who had visited the home on 11th May, 2017 states that the prospective adoptive parents are educated and their financial situation is good. They are in good physical and emotional state to take care of Avantika. After this assessment, the Social Worker of Shishu Grah Kolhapur recommended the couple be considered for the adoption of a child as per their desire.

9. After this, the child security undertaking dated 11th January, 2019 has also been given by the sister and brother-in-law of the prospective adoptive father residing at Kolhapur to look after the proposed minor Avantika in case of any mishap to the prospective adoptive parents. This security undertaking can be

found at pages 161-162.

10. The post card size photograph of the minor is on record at page 25. The joint declaration of consent and willingness and undertaking of the prospective adoptive parents are on record. The medical examination of the proposed minor Avantika dated 19th February, 2019 is on record and it states that she is a normal, healthy infant. The proposed Adopters have countersigned the said report (pages 154-158). The HIV report of the proposed minor is on record at page 159. As regards the change of name, the proposed Adopters desire that the minor Avantika be renamed as “Owi Mandar Kulkarni”. It is accordingly so ordered. The pre-adoption foster care undertaking dated 15th April, 2019 is on record. The undertaking dated 15th April, 2019 to send follow up report by the Authorities of Shishu Grah, Kolhapur is also at page 30.

11. The petitioners have recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period upto 31st December, 2018. However, the petitioner institution has applied for renewal and in the interregnum have filed this adoption petition under the provisions of Regulation 24 (5) of the Adoption Regulations, 2017.

12. The adoptive parents are also present before me and they have undertaken to this Court that they will create a Fixed Deposit in the sum of Rs.2,00,000/- (Rupees Two Lakhs) in the name of minor Avantika until she attains majority. The said undertaking is also accepted.

13. Looking to all the aforesaid documents that have been placed before me and considering all the material on record, I think it would be in the interest of the child if she is adopted by the prospective Adopters. I therefore find no any impediment in granting the reliefs sought in the petition.

14. In view of the aforesaid discussion, the petition is allowed in terms of prayer clauses (a) to (e) which read thus :-

(a) This Hon'ble Court may be pleased to appoint the co-petitioners, Mr. Mandar Kulkarni and Mrs. Minaz S. Kulkarni, the adoptive parents of the female minor, Avantika @ Owi Mandar Kulkarni, in the care of the M.S.W.C. Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai 400 009;

(b) That the Co-Petitioners be allowed to change the name of the minor "Avantika to "Owi Mandar Kulkarni".

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor along with them, i.e. to the co-petitioners family wherever

they may reside or their work may require them to;

(d) That the Co-Petitioners, Mr. Mandar Kulkarni and Mrs. Minaz S. Kulkarni may be granted leave to make an application to the passport authorities or any other authorities for the same;

(e) That the concerned Municipal Corporations / the Birth Certificate issuing Authority may be directed to issue Birth Certificate for the said minor within the five working days from the date of application of the petitioners, as per the provisions of regulation 35 of the Adoption Regulations, 2017”

15. The Judge's order is also separately signed.

16. It is directed that the petitioner institution should 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.

17. The adoption petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)