

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 30 of 2019

WITH

JUDGE'S ORDER No.94 of 2019

M.S.W.C. Asha Sadan Balgruh  
Vs

..Petitioner.

Sadashiva C. & Anr

..Respondents.

Ms. Dipal Mehta for the Petitioners.

Mr. O. Harendran, Scrutiny Officer of ICSW.

Mr. Sadashiva C. and Mrs. Bharathi S Proposed  
Adopters present in person.

**CORAM : B. P. COLABAWALLA, J.**

**DATED :- 6<sup>th</sup> June, 2019.**

**P.C. :-**

1. This Adoption Petition is for the adoption of a female minor Pooja who was born on 14<sup>th</sup> June, 2014. She was found abandoned by the Marine Drive Police Station, Mumbai on 27<sup>th</sup> March, 2017 and admitted to the petitioner institution on the same day as per the order of Child Welfare Committee, Mumbai dated 30<sup>th</sup> March, 2017 under Section 31 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short "the Juvenile Justice

Act". The admission order is on record. The representation of the Indian Council of Social Welfare (ICSW) is taken on record and is marked "X" for identification.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, the Child Welfare Committee, Mumbai City II has declared that the proposed minor Pooja is a child, legally free for Adoption as on 27<sup>th</sup> September, 2017. A Certificate declaring the child free for adoption is also on record of this Court.

3. The proposed Adopters are residing at Kasargod, Kerala and are aged 50 and 47 years respectively, having been married for the past 12 years ( 10<sup>th</sup> January, 2007). They have no biological children. The Family Photograph is at page 36. The proposed Adopters have also executed the Motivation Letter which states that the proposed Adopters have no children and after undergoing several tests and consulting a Doctor, it is informed that they have no chance of having biological children. It is in these circumstances that they have sought to adopt minor Pooja.

4. The decision of Adoption Committee dated 9<sup>th</sup> April, 2019

is also on record which states that the proposed Adopters are suitable to adopt the child Pooja born on 14<sup>th</sup> June, 2014. The affidavit of the Chief Functionary of the petitioner is also on record.

5. The Health report of the prospective adoptive parents dated 22<sup>nd</sup> January, 2019 is on record and states that the health of the prospective adoptive parents do not disqualify them in parenting a child in any way. Their HIV I & II and Hepatitis “B” test reports certify their case as Negative.

6. As far as the Financial status of the prospective adoptive father is concerned, it has been brought to my notice that the prospective adoptive father is an agriculturist and his income for the Assessment Year 2018-19 is Rs.2,50,000/- as per the income certificate issued by Chartered Accountant and which can be found at page 64 of the paper book. Over and above this, the learned Advocate for the petitioners has tendered before me today the Income Certificate issued by the Government of Kerala which shows the income of the proposed adoptive father as Rs. 2,00,000/-. The said income certificate is taken on record and marked “X-1” for identification along with the copy of the PAN Card. The proof of

residence, bank statements and other supportive financial/property documents are on record. They indicate that the adoptive father is the owner of three immovable properties and which includes a family house.

7. The Home Study Report (Part I and II) are also on record. The Assessment report of the Social Worker of Snehaniketan Founding Home, Taliparamba, Kannur states that the prospective adoptive parents are genuine in their dealings and have a good attitude towards their plan of adoption. They have a good family atmosphere and enough income to look after the child. They are physically, mentally and emotionally fit to adopt the child. After the aforesaid assessment, the Social Worker recommended them for adoption of a child. The niece and husband of the prospective adoptive father have also executed a child security undertaking dated 12<sup>th</sup> February, 2019 to look after the proposed minor in case of any mishap to the prospective adoptive parents. The said undertaking is also on record at page 147 and 148. The post card size photograph of the minor is also on record at page 23 of the paperbook.

8. The Joint Declaration of consent and willingness of the prospective adoptive parents is before me at page 59 of the petition along with the Pre-adoption foster care undertaking dated 17<sup>th</sup> April, 2019 (page 60 to 63).

9. The medical examination of the proposed minor Pooja dated 25<sup>th</sup> September, 2018 is on record and it states the overall observation of the child. It appears that she is healthy but has suffered severe physical and emotional trauma. Speech will require continued evaluation and she has a shy and withdrawn personality. The proposed adopters have countersigned the said report. Further the proposed minor's I.Q. Report dated 10<sup>th</sup> September, 2018 is on record and it states that on the basis of Kamats Test of Intelligence she gains an intelligent Quotient of 100-105 points which places her in the Average Range of Intellectual Functioning. The proposed Adopters have countersigned the said report along with the Speech Therapist and Psychologist Reports. All these documents are on record at page 139 to 143 of the petition.

10. The HIV Report of the proposed minor dated 22<sup>nd</sup> September, 2018 certifies the case as non-reactive and can be found

at page 144 of the paperbook. As regards the change of name, the proposed Adopters desire that the minor “Pooja” be renamed as “Yashika. C”. The same is accordingly ordered.

11. The undertaking dated 26<sup>th</sup> April, 2019 to send follow up report by the Authorities of Snehaniketan Founding Home, Taliparamba, Kannur is at page 146 of the petition. The petitioner institution's recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period upto 31<sup>st</sup> December, 2018. However, the petitioner institution (Specialized Adoption Agency) 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 before me and they have undertaken that they will create a fixed deposit in the sum of Rs.1,50,000/- (Rupees One Lakh, Fifty Thousand) in the name of the minor child “Pooja @ Yashika C” till she attains the age of majority. The said undertaking is also accepted.

13. 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. In view of this, 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, Sadashiva C. and Bharathi S. as the adoptive parents of the female minor, Pooja @ Yashika C., 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 from "Pooja" to "Yashika C."

(c) That the Co-petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Court and to take the minor alongwith them, i.e. to the Co-Petitioners family wherever they may reside or their work may require them to,

(d) That the co-petitioners, Sadashiva C. and Bharathi S. may be granted leave to make an application to the passport authorities or any other authorities for the same,

(e) That the concerned Municipal Corporation/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the petitioner as per the provisions of Regulation 36 of the Adoption Regulations and,

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

15. 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 the same shall be filed on the record of this Court.

16. The Adoption petition is disposed of in the aforesaid terms.

**(B.P. COLABAWALLA, J.)**