

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 31 of 2019

WITH

JUDGE'S ORDER No.96 of 2019

SWTI, Bal Vikas Shishu Bhavan,
Malad (East), Mumbai 400 097

..Petitioners.

And

1) Moses Samuel Bhore

2) Mrs. Neeta Moses Bhore

..Proposed Adopters.

Smt. Lalita Jaya Raj for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer of ICSW present.

CORAM : B. P. COLABAWALLA, J.

DATED :- 7th June, 2019.

P.C. :-

1. This Adoption Petition is for adoption of a male minor “ADI” who was born on 11th November, 2018 by Indian Nationals. The biological mother of the minor surrendered the minor child to the Child Welfare Committee, Mumbai Suburban District, Mumbai on 16th November, 2018 and the safe custody was given to the petitioner institution as per the safe custody order of the Child Welfare Committee, Mumbai dated 16th November, 2018 under Section 36 (i) of the Juvenile Justice (Care and Protection of

Children) Act, 2015 (for short “the Juvenile Justice Act) read with Rule 18 (4) of the Model Juvenile Justice Rules, 2016. Order of Placement of the child is at page No. 25 of the petition. 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, Mumbai City II has declared that the proposed minor “ADI” is a child legally free for Adoption as on 18th January, 2019. A Certificate declaring the child free for adoption is also on record of this Court at page Nos. 26 and 27.

3. The proposed Adopters are residing at Miraj, District Sangli (Maharashtra) and they are aged 41 and 40 years respectively, having been married for the past 11 years (10th August, 2007). They have no biological children. The reason for adopting the minor can be found in the Motivation Letter which is on record at Exh. “A” of the petition and states that after marriage, from time to time, they were trying to have a baby but were not successful. After consulting various doctors and trying several treatments, as they were unsuccessful in having a baby, they took a

decision to adopt a child. The affidavit of the petitioner in support of the adoption of the proposed minor is also on record.

4. The Adoption Committee Minutes dated 28th February, 2019 is on record and states “the prospective adoptive parents needs a good counseling as they are not mentally prepared to take care of the small child for adoption. In the best interest of the child Adoption Committee has taken decision not to approve the adoptive parent. The Second Meeting of the Committee dated 25th April, 2019 is also on record and it states, the doctor, trustee and the Social Worker are not in favour of considering this application. However, the District Child Protect Officer feels that they are fit to adopt a child.”

5. Affidavit dated 29th April, 2019 is also on record and it has been executed by the prospective adoptive parents.

6. The medical report of the first proposed adopter dated 26th February, 2019 states that the applicant is not suffering from any health problem. He is fit mentally as well as physically to adopt a baby. His HIV and HbsAg test reports certify the case as Non-Reactive. Similarly, the medical report of the second proposed

adopter dated 26th February, 2019 is also on record and states that the applicant is not suffering from any health problem except small burn scar over neck. She is fit mentally as well as physically to adopt a baby. Her HIV and HbsAg test reports certify the case as non-reactive. Her latest medical certificate dated 10th April, 2019 is on record and it states at present she is well emotionally balanced and no signs of depression are noted. She is mentally and physically fit to undergo her regular duties as well as household duties. Therefore, she is fit to adopt a baby child.

7. Both the proposed Adopters are working as Staff Nurses in the Department of Ophthalmology Wanless Hospital, Miraj since 2013. The gross salary of the first Adopter is Rs.14252/- per month and that of the second Adopter is Rs.9,000/- per month. Their respective employment certificates and salary certificates are also on record along with the income tax returns, property statements, bank reference, The copies of PAN and Aadhar Cards are also on record at page 32 and 33. The Childcare Arrangement Plan from the proposed Adopters is also on record at page 45 and 45-A.

8. The Home Study Report (Part I and II) are also on record. The Assessment report of the Social Worker of Bharatiya

Samaj Seva Kendra, Sangli Branch states that there was a home visit on 31st January, 2017. After this home visit, a report was made which states that the the prospective adoptive parents are physically and mentally fit and they perform their daily work nicely. Two of them currently do not have any major health issues and they have been happily married for the past nine years. They share a loving and attached relationship with each other and they seem to be mature, stable and balanced. After this assessment, the Social Worker recommended the prospective adoptive parents for adoption of a healthy male child upto 2 years.

9. The child security undertaking dated 29th April, 2019 has also been executed by the brother and sister-in-law of the first proposed Adopter residing at Miraj to look after the proposed minor in case of any mishap to the proposed Adopters. This child security undertaking is on record at page 53 and 54. The photograph of the minor and the adoptive family is also on record at page 55 and 56 of the paper book. The medical examination of the proposed minor dated 1st January, 2019 is also on record and it states that the infant is overall healthy. The proposed Adopters have countersigned the said report. Similarly, the HIV report of the minor dated 12th January, 2019 certifies the case as negative. The declaration of

willingness by the prospective adoptive parents is on record and can be found at page 76 and 77.

10. As regards change of name, the prospective adoptive parents desire that the minor "ADI" be renamed as "Mihas Moses Bhore". It is accordingly so ordered. The undertaking executed by the Bharatiya Samaj Seva Kendra, Sangli is also on record which undertakes to send a follow up report. The petitioner institution's recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period upto 31st March, 2020.

11. I must mention that the proposed adoptive parents who were present before me yesterday have also undertaken that they shall create a fixed deposit in the name of minor "ADI" in the sum of Rs.1,00,000/- (Rupees One Lakh) till he attains the age of majority. The said undertaking is accepted.

12. 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 he is adopted by the prospective Adopters. I therefore find no impediment

in granting the reliefs sought in the petition.

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

(a) This Hon'ble Court may be pleased to appoint the Adopters as adoptive parents of the person of a male minor "ADI @ MIHAS MOSESL BHORE" now in the care and custody of the Petitioners : Swti Bal Vikas Shishu Bhavan, Malad (East), Mumbai 400 097.

(b) That the Petitioners/Adopters be granted leave to apply to the Municipal Authorities to issue within five working days of application a Birth Certificate of the minor ADI @ MIHAS MOSES BHORE showing the first adopter MOSES SAMUEL BHORE as the adoptive father and his wife the second adopter Mrs. Neeta Moses Bhore as the adoptive mother respectively;

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.)

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