

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

FOREIGN ADOPTION PETITION No. 17 of 2019

WITH

JUDGE'S ORDER No. 97 of 2019

Janani Ashish Charitable Trust	]
Plot No. P/37, M.I.D.C. Res. Zone	]
Dombivli (East)	]Petitioner

Versus

Ms. Eglantine Christine	]
Emilie Haustaete,	]
French National.	]Proposed Adopter.

Mr. Rakesh Kapoor, Advocate for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer of ICSW.

CORAM : B. P. COLABAWALLA, J.
DATED :- 13th June, 2019.

P.C. :-

1. This Foreign Adoption Petition is for the adoption of a male minor "KETAN" born on 10th November, 2013. He was taken charge of by Kalyan Railway Police Station on 27th December, 2017 and admitted to the petitioner-Institution on the same day.

Thereafter, the said minor was presented before the Child Welfare Committee, Thane on 29th December, 2017 and the custody was continued to the said Institution as per the order dated 29th December, 2017 for a period of three months under Section 31 (1) of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the Juvenile Justice Act,2015”). The admission order is at page 15 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, 2015, the Child Welfare Committee, Thane has declared that the proposed minor “KETAN” is a child, legally free for adoption as on 21st September, 2018. A Certificate declaring the child free for adoption is also on the record of this Court. Even the undertaking / affidavit by the petitioner is on record.

3. The Central Adoption Resource Authority (CARA), New Delhi has also given its No Objection Certificate dated 19th March, 2019 to the aforesaid 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. This No Objection Certificate can be found at page 21 of the paper book.

4. The proposed Adopter is a single woman of French Nationality residing at Ouistreham, France and is about 38 years old. She has no biological children. The proposed Adopter's Family photo and Passport copy is on record along with Motivation Letter dated 21st August, 2017. The Letter of Motivation by the proposed Adopter indicates that the proposed Adopter had for a long time wanted to build up her own family and she did not meet a man to share her life with. It is then that she decided to turn to adoption. After pondering about it for two years and collecting information on what it means to be placed with a child and build up a family with him, she eventually started the procedure for adoption, which eventually ended up on being issued approval in September, 2015. The Motivation Letter also states that the proposed Adopter is open to receive a child carrying medical specificities such as certain chronic diseases (HIV status, viral hepatitis) or deformities and is also willing to build up a family with a child having a difficult personal or family background. This Motivation Letter can be found at pages 28 to 31 of the petition.

5. The Health Report of the proposed Adopter is dated 8th August, 2017 and states that she is in good health. Her HIV and Hbs Ag test reports are Negative. As far as her financial condition is concerned, the prospective adoptive mother is working as a Pulmonologist in the Hospital Center of Lisieux since 2nd November, 2015 and her net monthly salary is about 4,380 Euros. Her Employment/Salary certificate along with her Income-Tax Return for the year 2016 are on record at page 40 and 41. As far as her latest Tax Returns are concerned, the same have been tendered before me today. They reflect that the Annual Income of the proposed Adopter is 49,155 Euros. The Tax Notification for the year 2017 is taken on record and marked "X-1" for identification. Along with this, the bank statement, financial status and proof of property are at pages 44 to 51.

6. When the petition was filed, the Child Care Arrangement Plan was not before the Court. However, the same has been tendered before me today. This Child Care Plan states that the proposed Adopter is a hospital practitioner, a civil servant, which allows her to enjoy a safe employment. The employer of the proposed Adopter has also been informed of her steps to adopt "KETAN" and all the modifications in her work schedule when he arrives. It is further

stated that the minor “KETAN” will attend one of the town schools which is at ten minute walkable distance from her residence and she will be able to take him to the school before going for her work. It is further stated that her working hours makes it possible for her to pick up “KETAN” from school at the end of the school day. This Child Care Plan is taken on record and marked “X-2” for identification.

7. The Home Study Report dated 12th June, 2018 issued by the Authorities of “Les Enfants de l'Esperance”, France is on record at pages 52 to 58 and states that the prospective adoptive mother is well structured, loving and deeply wishes to adopt a child. She will provide a child with all the love required for the child's good development and has deeply pondered this prospective adoption of a child. Her reflection on her adoption project has been mature and focused on the well-being of the child. Her whole family approves the adoption project and they will all greet this long-expected child with much tenderness.

8. The report of Psychological Evaluation of the proposed Adopter dated 23rd April, 2018 is also on record and states that the proposed Adopter is a sedate and poised woman who seems to be

well-asserted, solid and with great sensitivity and has proved to be most sincere and genuine. The permission of the President of the Department at Council of Calvados, France is on record at pages 62 to 65.

9. The close relative of the proposed Adopter, namely, the proposed Adopter's elder sister has also executed a Child Security Undertaking to take care of the child in case of any unforeseen mishap to the proposed Adopter. This child security undertaking is at pages 78 to 81 of the paper book. A father figure letter from the proposed adopter's elder brother is also on record at pages 72 and 73.

10. The HIV Test report of the proposed minor dated 2nd January, 2018 certifies HIV 1 & 2 ABS, Western Blot (HIV 1 confirmation) as positive and HIV-2 ABS Western Blot as negative. This report can be found at page 95. Though initially the proposed Adopter had not counter-signed this report, the counter-signed report has been tendered before me and is taken on record and marked "X-3" for identification. The post card size photograph of the minor is also at page 96.

11. The medical examination report of the proposed minor dated 2nd October, 2018 states “Health status : Special Need (HIV.1) sero positive”. The proposed Adopter has countersigned this report and given a separate acceptance letter which is at pages 86 to 93.

12. As far as proposed minor's Psychological Test Report is concerned, the same is tendered before me today and inter alia states that Ketan was able to follow the instructions and was quick while giving responses. Rapport was well established. Eye-contact was established and maintained. This Psychological Test Report has not been counter-signed by the proposed Adopter. The learned Advocate appearing on behalf of the petitioner states that she has been duly made aware of the same and is willing to adopt the child. The Psychological Test Report dated 10th June, 2019 is taken on record and marked as “X-4” for identification.

13. As regards change of name, the proposed adoptive mother desires that the minor “KETAN” be renamed as **“KETAN Adrien Maxime Haustreaete”**. The same is hereby allowed.

14. The undertaking of the prospective adoptive mother along with the undertaking by the Authorized Adoption Agency, “Les

Enfants de l' Esperance", France is on record at page 98. The Power of Attorney duly signed by the proposed Adopter in favour of the petitioner institution is also on record.

15. The Indian Placement Agency's (Janani Ashish Charitable Trust, Dombivli, District Thane) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period upto 31st July, 2019.

16. Looking to all the documents that have been placed before me and after perusing the record, I think it would be in the interest of the child if he is adopted by the proposed Adopter. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

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

- (a) For the Adoption of the proposed male minor **Ketan Adrien Maxime Haustraete**, born on the 10th day of November, 2013 by the Proposed Adopters under Section 59(7) of the Juvenile Act, 2015;
- (b) For declaring the Proposed Adopter as Adoptive Parent of the said minor and shall have all parents rights, privileges and

responsibilities over the minor **Ketan Adrien Maxime Haustraete**, now in the care and custody of Janani Ashish Charitable Trust, Plot P/37, M.I.D.C. Res. Zone, Dombivili (East) – 421 203, Dist. Thane, Maharashtra State;

- (c) That the proposed adopters be allowed to change the name of the minor KETAN to **Ketan Adrien Maxime Haustraete**;
- (d) Leave/ permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor **Ketan Adrien Maxime Haustraete**; and
- (e) That the Proposed Adopter may be granted leave to remove the said minor **Ketan Adrien Maxime Haustraete** from the jurisdiction of this Hon'ble Court and to take the said minor to **FRANCE** or wherever she may reside in the future.

18. The Judges order is also separately signed.

19. It is directed that the petitioner institution should obtain a further undertaking from the adoptive mother that she 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.

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

(B.P. COLABAWALLA, J.)