

Ladda RS.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 32 of 2019

WITH

JUDGE'S ORDER No. 98 of 2019

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Shree Manav Seva Sangh]Petitioner.
255-257, Sion Main Road,]
Sion West, Mumbai-400 022.]

And

Ajay Singh Sikarwar, 41 yrs]
And]
Reenu Sikarwar, 39 yrs]Prospective
]Adoptive Parents.

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

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

P.C. :-

1. This Adoption Petition is for the adoption of a female minor "DURGA" born on 7th October, 2018. The biological mother of the said Durga relinquished her before the Child Welfare Committee, Mumbai City on 17th October, 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 and that the minor Durga was admitted to the petitioner institution under Section 36 (1) of the Juvenile Justice Act, read with Rule 18 (4) of the Model Juvenile Justice Rules. The admission order is on record at page 15. The representation of the Indian Council of Social Welfare (ICSW) is treated before me and 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 Durga legally free for adoption as on 21st December, 2018. The certificate declaring the child free for adoption is also on record of this Court at Page No.14 of the paper book.

3. The prospective adoptive parents, namely Ajay Singh Sikarwar and Reenu Sikarwar, are aged about 41 and 39 years respectively. They are residing at Hoshangabad, (Madhya Pradesh). They have been married for the last 12 years (19th April, 2007) and have no biological children. The Family Photograph is also on record at page No.81. The Motivation Letter from the proposed Adopters is also on record which states that they have always dreamed of being

parents. They always hoped to be parents and to provide a loving family to their children. It was in these circumstances, that they made up their mind for adoption to have a complete and balanced family.

4. The decision of the Adoption Committee dated 16th April, 2019 is on record which states that the proposed Adopters are well prepared for adoption and therefore they are suitable for adoption of a girl child “Durga”. The affidavit of the Chief Functionary of the petitioner institution is also on record at page Nos. 90 to 96.

5. The Health Report of the prospective adoptive parents dated 6th April, 2019 is on record. It states that they are physically and mentally fit for adoption of a child and their HIV I & II and Hbs AG test reports certify the case as Non-Reactive.

6. As far as the financial condition of the prospective adoptive parents is concerned, the prospective adoptive father is self-employed (running a Tea and Cold Drink Stall at Hoshangabad) and his income for the Assessment Year 2017-18 is Rs.2,06,676/-. His Income Affidavit and Tax Returns for the years 2015-16, 2016-17 and 2017-18 are also on record. Over and above, the latest Income

Tax Return for the Assessment Year 2019-20 is tendered before me which indicates that the gross total income of the proposed adoptive father is Rs. 3,29,945/-. The Income Tax Return acknowledgement is taken on record and marked as "X-1" for identification. As far as the proposed adoptive mother is concerned, she is a home maker. In support of the above, the PAN Card, Aadhar Card, Proof of residence, property documents, LIC certificate and Bank Statements are also at pages Nos. 18, 20, 31 to 33 and 45 to 51 respectively.

7. There is also a Home Study Report at page Nos. 52 to 58. Part-II of this report indicates that the Social Worker of Shishu Grah, Hoshangabad, Madhya Pradesh did a home visit on 27th January, 2017 the Social Worker noted that the prospective adoptive parents are physically and emotionally stable and financially sound. They are well prepared for adoption. After this assessment, the Social Worker recommended the proposed adoptive parents for adoption of a child.

8. The younger brother of the prospective adoptive mother and who is residing at Vidisha, Madhya Pradesh, has also executed a child security undertaking dated 8th April, 2019 to look after the proposed minor in case of any mishap to the prospective adoptive

parents. This security undertaking can be found at page No. 82.

9. The medical examination of the proposed minor dated 24th February, 2019 is at page Nos. 86 to 91 and it states that the child is physically and mentally normal. The proposed Adopters have countersigned the said report. The HIV report of the proposed minor dated 16th October, 2018 is on record at page No.92. The said report certifies the case as Negative. The post-card size photograph of the minor is also on record at page No. 93.

10. As regards the change of name, the proposed Adopters desire that the minor “Durga” be renamed as “ Dhvani Sikarwar”. It is accordingly so ordered.

11. The joint consent, willingness and undertaking by the the proposed Adopters can also be found at page No. 34 along with pre-adoption foster care undertaking dated 18th April, 2019 is at (page Nos. 35 to 37). Over and above, there is an undertaking from the petitioner-institution for furnishing post adoption follow-up report at page No.99 of the paper book.

12. The recognition of the petitioner-institution 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.

13. The adoptive parents are not present before me. However, they have given instructions to the Advocate appearing for the petitioner that that they will create a Fixed Deposit in the sum of Rs. 1,00,000/- (Rupees One Lakh) in the name of minor until she attains majority. The said undertaking is accepted.

14. 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.

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

- (a) That the Prospective Adoptive Parents be given to the said child in adoption be declared as parents and have all parental legal rights, privileges and

responsibilities over the said minor **DHVANI SIKARWAR**;

- (b) That the Prospective Adoptive Parents may be granted leave to remove the said minor from the Jurisdiction of this Hon'ble Court and to take the said minor 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 **DHVANI SIKARWAR** born on 07.10.2018 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor; and
- (d) That the Prospective Adoptive Parents be allowed to change the name of the minor from **DURGA TO DHVANI SIKARWAR** born on 07.10.2018.

16. The Judge's order 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, 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.)