

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 33 of 2019

WITH

JUDGE'S ORDER No.99 of 2019

St. Catherine's Home, part of St.]
Catherine's Society at Veera]
Desai Road, Andheri (West), Mumbai]Petitioner.

And

1) Arvindkumar Srivastav, age 44 yrs.]
2) Suman Srivastav, age 42 yrs.] Prospective
] Adoptive parents.

Mr. Rakesh Kapoor i/by M/s Rakesh K.L. Kapoor & Co. 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 adoption of a male minor
“Shameek” who was born on 15th November, 2018. The biological
mother of “Shameek” surrendered him to the Child Welfare
Committee, Mumbai Suburban District, Mumbai on 23rd October,

2018 and the custody was given to the petitioner institution as per the safe custody order of the Child Welfare Committee, Mumbai dated 23rd October, 2018 under Section 36 (1) 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. The safe custody order can be found at page No. 14 of the petition. The representation of the Indian Council of Social Welfare (ICSW) is placed before me and 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 Shameek is a child legally free for Adoption as on 4th January, 2019. A Certificate declaring the child free for adoption is also on record of this Court at page No. 14.

3. The proposed Adopters are residing at Delhi and they are aged 44 and 42 years respectively, having been married for the past 20 years (4th May, 1999). They have two biological daughters, aged about 19 years and 16 years respectively. Their birth certificates, medical examination reports and consents are on record along with their family photograph. This can be found at page Nos. 27 to 36 and

page 84 respectively. The Motivation Letter from the prospective adoptive parents is also on record which inter-alia states that they have two wonderful biological daughters, but always wanted a boy as well. It is in these circumstances, they seek to adopt a minor Shameek. This Motivation Letter is at page 37.

4. The decision of the Adoption Committee dated 18th March, 2019 duly signed by the Prospective Adoptive Parents, Superintendent of the petitioner-institution, DCPU Officer, Pediatrician and Senior In charge of Nursery is on record at page No. 13. The affidavit of the Chief Functionary of the petitioner is also on record at page Nos. 100 to 102.

5. The medical report of the proposed adoptive parents dated 25th March, 2019 is on record which inter alia states that the prospective adoptive parents are medically and physically fit. Their HIV I & II and HbsAg test reports certify the case as Non-Reactive.

6. As far as the financial condition of the concerned prospective adoptive father is concerned, he is employed as an LIC agent and his income for the Assessment Year 2018-19 is Rs.4,59,571/-. His Income Affidavit and Tax Returns for the years

2016-17, 2017-18 and 2018-19 are on record at page Nos. 46 to 56 respectively. As far as the prospective adoptive mother is concerned, she is presently a home maker. In support of the above, the PAN card, Aadhar Card, Proof of Residence and LIC certificate are also on record.

7. There is a Home Study Report on record. The Part II of this report indicates that the Social Worker of Bharatiya Samaj Seva Matrichhaya, New Delhi, made a home visit to the prospective adoptive parents on 14th April, 2017. After this home visit, a report was made which states that the the prospective adoptive parents are living in their own house at Kirari, Delhi. The total area of the house is 70 square yards. It is a three storey building in which they live on the second floor. The other floors have been given on rent. They are well settled and equipped with enough facilities to take care of the child. After all the assessment, the Social Worker recommended the couple for adoption.

8. The HIV report of the proposed minor dated 4th November, 2018 certifies the case as Negative. The post-card size photograph of the minor is on record. As regards change of name, the prospective adoptive parents desire that the minor "Shameek"

be renamed as “Shreyansh Arvind Kumar Srivastav”. It is accordingly so ordered.

9. The proposed adoptive father's nephew and his wife have also executed a Child Security Undertaking dated 25th March, 2019 that in the event of any unforeseen mishap to the prospective adoptive parents, they shall look after the minor Shameek. This Child Security Undertaking is at page Nos. 85 and 86 respectively. The medical examination of the minor Shameek dated 5th February, 2019 is on record and states that he is an active child. The proposed Adopters have countersigned the said report which is at page Nos. 92 to 97 of the paper book.

10. The joint consent, willingness and undertaking by the prospective adoptive parents is on record at page Nos. 41 and 42 along with the Pre-adoption foster care undertaking dated 25th March, 2019 (page Nos. 43 to 45). The undertaking dated 26th March, 2019 from the authorities of Sewa Bharti Matrichhaya, New Delhi for furnishing post adoption follow-up report is also at page No. 105 of the paper book.

11. The Indian Placement Agency's (St. Catherine's Home,

Mumbai) recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid upto 24th April, 2020.

12. Even though the proposed adoptive parents are not before me, they have instructed the Advocate for the petitioner to state that they are willing to undertake to this Court that they shall create a fixed deposit in the name of the minor in the sum of Rs.1,00,000/- (Rupees One Lakh) till he attains the age of majority. The said undertaking is 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 the child that he is adopted by the prospective Adopters. I therefore find no impediment in granting the reliefs sought in the petition.

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

- (a) That the Prospective Adoptive Parents be given the said child in adoption be declared as parents and have all parental legal rights, privileges and responsibilities over the said minor **SHREYANSH ARVINDKUMAR SRIVASTAV**;

- (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 **SHREYANSH ARVINDKUMAR SRIVASTAV** born on **15.10.2018** 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 **Shameek** to **SHREYANSH ARVINDKUMAR SRIVASTAV** born on 15.10.2018.

15. The Judge's Order to this effect 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 the same shall be filed on the record of this Court.

17. The Adoption Petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)