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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION No. 45 of 2019
WITH
JUDGE'S ORDER No. 127 of 2019
IN
INDIAN ADOPTION PETITION No. 45 of 2019.

M.S.W.C. Asha Sadan Balgruh

...Petitioner.

And

1) Vilas Vasantryao Gavhale

2) Seema Vilas Gavhale

...Proposed Adopters.

Mrs. Varsha Bhogle Deshmukh a/w Vrushali Jadhav, Advocate for
the Petitioner.

Mr O. Hareendran Officer of ICSW is present.

CORAM : B. P. COLABAWALLA, J.

DATED :- 25th July, 2019.

P.C. :-

This Indian Adoption Petition has been filed for the adoption of a male minor **Pratham** born on 21st June, 2018. The said minor was found abandoned by Malvani Police Station, Mumbai on 13th July, 2018 and was admitted to the petitioner institution on 16th July, 2018 as per the Safe Custody Order of the Child Welfare Committee, Mumbai of the same date. The said Safe Custody Order is on record on page 20 of the paper book. The representation from

the Indian Council of Social Welfare (“ICSW”) is also tendered before me and taken on record and marked “X” for identification.

2 After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the Child Welfare Committee, Mumbai City-I declared the proposed minor Pratham as “**Legally Free for Adoption**” as on 28/12/2018. The Free for Adoption order is on record at pages 21 and 22.

3 The Proposed Adopters are residing at Sillod, Aurangabad, Maharashtra aged about 42 and 37 years respectively. They have been married for the past 15 years (11/05/2004) with no biological children. The Family photograph is on record at page 98 of the paper book.

4 The Motivation Letter from the Proposed Adopters is on record and it states that “Since they got married in the year 2004, they are dreaming of being parents; however after waiting 13 years they came to know that they are unable to have biological children and were very disappointed”. To overcome this situation their first choice was adoption. This Motivation Letter is on record at pages 33-33A.

5 The Decision of Adoption Committee dated 30/04/2019 is on record and it states “the prospective adoptive parents are suitable to adopt child **Pratham** born on 21/06/2018”. The Minutes of the Adoption Committee Meeting is on record at pages 18 and 19 of the paper book.

6 The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) is on record at pages 105 to 111.

7 The Health report of the prospective adoptive parents dated 26/04/2019 is on record and it states “the health of the prospective adoptive parents do not disqualify them in parenting a child in anyway”. Their HIV I & II and Hepatitis B test reports certifies the case as Non Reactive. These reports are at pages 37 to 45 of the paper book.

8 The Prospective Adoptive father is working as an Assistant Teacher at Zilla Parishad School, Primary level since 21/07/2000 and his monthly salary for the month of April-2019 is Rs. 57,730/-. His Salary Certificate and Tax Returns for the Assessment Years 2016-17 and 2018-19 are on record at pages 49 to

54. The Prospective Adoptive Mother is a housewife. The proof of Property, residence and other supportive financial documents are on record at pages 47 and 48; 55 to 67.

9 The childcare arrangement undertaking is on record at pages 30 to 32.

10 The home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at pages 68 to 75. The part II: Assessment report of the Social Worker of Bharatiya Samaj Seva Kendra, Aurangabad (Home visit done 14/03/2017) is on record at pages 76 to 82 and it states “the prospective adoptive parents are in a good physical and emotional state to take care of a child. They are loving, affectionate and matured couple. The couple has good relationship and communication with each other and with their relatives and friends. They are well educated and their financial condition is good”. After all the assessment the social worker recommended the couple for adoption of a male child from the age group of 3 to 6 months.

11 The child security undertaking dated 04/05/2019 given by the brother and sister-in-law of the Prospective Adoptive mother

residing at Pune to look after the proposed minor in case of any unforeseen mishap to the Prospective Adoptive Parents is on record at pages 99 and 100. The Post Cared Size Photograph of the minor is on record at page 24 of the paper book.

12 The Joint Declaration of consent & willingness and undertaking of the prospective adoptive parents are on record at pages 34 and 104.

13 The Medical Examination of the proposed minor Pratham dated 12/02/2019 is on record and it states “a normal, healthy infant”. The proposed adopters have countersigned the said report which is on record at pages 92 to 96.

14 The HIV report of the proposed minor dated 14/01/2019 certifies the case as Non Reactive. The said report is at page 97. The Pre -adoption foster care undertaking dated 04/05/2019 is also on record at pages 25 to 28.

15 As regards the change of name, the proposed Adopters desire that the minor ‘**Pratham**’ be renamed as “**Pratham Vilas Gavhale**”. It is accordingly so ordered.

16 The undertaking dated 08/05/2019 from the authorities of Bharatiya Samaj Seva Kendra, Aurangabad for furnishing post adoption follow-up reports is on record at page 29.

17 The Petitioner Institution's recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period up to 31/12/2018. However, the learned advocate appearing on behalf of the petitioner has stated before me that the Petitioner Institution has applied for renewal and in the interregnum the present Adoption Petition has been filed under the provisions of Regulation 24 (5) of the Adoption Regulations, 2017.

18 The proposed adoptive parents are also before me and have undertaken to this Court that they shall create a Fixed Deposit in a Nationalized Bank in the name of the minor in the sum of Rs.1,50,000/- till the minor attains majority. The said undertaking is also accepted.

19 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 Adopters. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

20. In view of the foregoing discussion, 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, Mr. Vilas Vasant Rao Gavhale and Mrs. Seema Vilas Gavhale, the adoptive parents of the male minor, Pratham @ Pratham Vilas Gavhale 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 “**Pratham**” to “**Pratham Vilas Gavhale**”
- (c) That the Co-petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor along with them, i.e., to the Co-Petitioner's family wherever they may reside or their work may require them to;
- (d) That the Co-Petitioners, Mr. Vilas Vasant Rao Gavhale and Mrs. Seema Vilas Gavhale may be granted leave to make an application to the passport authorities or any other authorities for the same;
- (e) That the concerned Municipal Corporations/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 Petitioners, as per the provisions of Regulation 35 of the Adoption Regulations, 2017.”

21. The Judges order is also separately signed.

22. It is directed that the petitioner institution shall 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.

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

(B.P. COLABAWALLA, J.)