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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. 41 of 2019
WITH
JUDGE'S ORDER No. 117 of 2019.

M.S.W.C. Asha Sadan Balgruh,]
Asha Sadan Marg, Umerkhadi]
Mumbai-400 009] **Petitioner.**

And

1) Shailendra Chauhan,]
age 40 years,]
]]
2) Sapna Chauhan,]
age 39 years,] **Co-Petitioners.**
Proposed Adopters.

Ms. Dipal Charandas S. Mehta for the petitioner-Institution.
Mr. Hareendran, Scrutiny Officer of ICSW present.
Mr. Shailendra Chauhan and Mrs. Sapna Chauhan are present in person.

CORAM :- B. P. COLABAWALLA, J.
DATED :- 11th July, 2019.

P.C. :-

1. This Adoption Petition is for the adoption of a female minor Nirmayee, born on 29th December, 2018, by Indian Nationals (hereinafter referred to as “the proposed Adopters”). The biological

mother of the said child executed a Deed of Surrender before the Child Welfare Committee, Mumbai on 9th January, 2019 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. Prior thereto, the minor Nirmayee was admitted to the petitioner institution on 9th January, 2019 as per the order of the Child Welfare Committee dated 18th March, 2019 under Section 36 (1) of the Juvenile Justice Act, 2015 read with rule 18 (4) of the Model Juvenile Justice Rules, 2016. The representation of Indian Council of Social Welfare (ICSW) is tendered before me and 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 Nirmayee legally free for adoption as on 18th March, 2019. The Free for Adoption Order is on record at page Nos. 18 and 19.

3. It has been stated before me that the proposed Adopters are residing at Wakad, Pune and are aged about 40 and 39 years respectively. They have been married for the last 12 years (13th

December, 2006) with no biological children. However, they have one adopted son “Vidvatam Chauhan” now aged about 3½ years from Ahmednagar, Maharashtra. His birth certificate and adoption order passed by the District Judge-7 at Ahmednagar is on record at page Nos. 47 to 52. The Family Photograph is also on record.

4. The Motivation Letter from the proposed Adopters is also on record which states that they have always dreamt of having a complete family by being parents of a boy and a girl child. They want to have a happy complete family with a daughter i.e., a sister to their son. In these circumstances, they have decided to adopt the minor Nirmayee. The Motivation Letter is at page No.22 of the paper book.

5. The decision of the Adoption Committee dated 21st May, 2019 is on record which has stated that the proposed Adopters are suitable to adopt Nirmayee. Affidavit of the Chief Functionary of the Specialized Adoption Agency (petitioner) is also on record at Page Nos. 126 to 131.

6. The Health Report of the prospective adoptive parents dated 28th May, 2019 is on record. It states that the health of the prospective adoptive parents does not disqualify them in parenting

the child in any way. Their HIV I & II and HBsAg test reports certifies the case as Non-reactive. The said report is at Page Nos. 26 to 37 of the paper book.

7. The prospective adoptive father is working as a Clinical Document Team Manager with Trans Perfect Solutions India Pvt. Ltd., Pune since 6th August, 2007 and his current remuneration with effect from March, 2019 is Rs.11,66,000/- per annum. His income and employment certificate, Pay Slips and Tax Return for the years 2016-17, 2017-18 and 2018-19 are on record at page Nos. 59, 61 and 67 to 69 respectively.

8. As far as the prospective adoptive mother is concerned, she, too, is working as a Senior Test Analyst with I.B.M. India Pvt. Ltd., Pune since 11th August, 2010 and her monthly gross saalary is Rs.1,05,197/-.` Her employment certificate, pay slips and tax returns for the years 2016-17, 2017-18 and 2018-19 are on record at page Nos. 60, 64-66 and 70 to 72. The proof of residence, bank statements and other supportive financial documents of the prospective adoptive parents are on record at page Nos. 53, 73 to 81. The childcare arrangement undertaking is also on record at page Nos. 82 and 83.

9. The home study report Part I, Self Assessment by the prospective adoptive parents is on record at page Nos. 85 to 95 of the petition. Part II of the Assessment Report of the Social Worker of Society of Friends of the Sassoon Hospitals (SOFOSH), Pune (Home visit done on 19th April, 2017) is on record. This report states that after all the assessment of the facts and observation, the Social Worker opined the prospective adoptive parents are very caring and responsible. Both of them seem to share a strong and stable marital relationship. They have financial stability and a positive outlook on adopting a child. They do not seem to have any unrealistic expectations for the child and they have already adopted a child. They have therefore recommended for adoption. Part II of the Assessment Report is at Page Nos. 96 to 107 of the paper book.

10. A child security undertaking dated 20th May, 2019 has also been given by the brother and sister-in-law of the prospective adoptive mother residing at Agra, Uttar Pradesh to look after the proposed minor Nirmayee in case of any mishap to the prospective adoptive parents. This security undertaking can be found at page Nos. 123 and 123A of the paper book.

11. The post card size photograph of the minor is on record

at page 21. The joint declaration of consent and willingness and undertaking of the prospective adoptive parents are on record at page Nos. 55 to 58.

12. The medical examination of the proposed minor Nirmayee dated 16th April, 2019 is on record and it states that her mental development is normal for her age. It is further stated that she is a normal healthy child. The proposed Adopters have countersigned the said report which is at page Nos. 116 to 120. The HIV report of the proposed minor certifies the case as Non-Reactive. The said report is at page No.121 of the paper book.

13. As regards the change of name, the proposed adoptive parents desire that the minor Nirmayee be renamed as “Arnika Chauhan”. It is accordingly so ordered.

14. The undertaking dated 24th May, 2019 to send follow-up report by the Authorities of Society of Friends of the Sassoon Hospitals Pune is at page No.122 of the paper book.

15. The petitioner Institution's have recognition 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.

16. The adoptive parents are also present before me and they have undertaken to this Court that they will create a Fixed Deposit in the sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousands) in the name of minor child until she attains majority. The said undertaking is also accepted.

17. 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.

18. In view of the aforesaid 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, Shailendra Chauhan and Sapna Chauhan as the adoptive parents of the female minor, Nirmayee @ Arnika Chauhan, in the care of the M.S.W.C. Asha Sadan Balgruh, Asha Sadan Marg, Merkhadi,

Mumbai-400 009;

(b) That the Co-Petitioners be allowed to change the name of the minor from “Nirmayee” to **Arnika Chauhan**;

(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 alongwith them i.e. to the Co-Petitioners' family wherever they may reside or their work may require them to;

(d) That the Co-Petitioners, Shailendra Chauhan and Sapna Chauhan may be granted leave to make an application to the passport authorities or any other authorities for the same; and

(e) That the concerned Municipality/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 Petitioner, as per the provisions of Regulation 36 of the Adoption Regulations.

19. The Judge's order is also separately signed.

20. 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, a copy of the same shall be filed on the record of this Court.

21. The adoption petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)