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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL & INHERENT JURISDICTION

**FOREIGN ADOPTION PETITION No. 21 of 2019
WITH
JUDGE'S ORDER No. 116 of 2019
IN
FOREIGN ADOPTION PETITION No. 21 of 2019.**

Children of the World India Trust

...Petitioner

and

1) Lorenzo Cavaggion, Italian National

2) Chiara Toniolo, Italian National

...Proposed adopters

Mr. Rakesh Kapoor, Advocate for the Petitioner.

Mrs Asha C. Shinde Officer of ICSW present.

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CORAM : B. P. COLABAWALLA, J.

DATED :- 5th July, 2019.

P.C. :-

This Foreign Adoption Petition is filed for adoption of a male minor “**SARANSH**” born on 30th July, 2018, by Italian Nationals. The said minor was found abandoned by the Kalyan Railway Police Station, Dist : Thane on 3rd August, 2018 and was brought before the Child Welfare Committee (for short “CWC”) on the same day. The custody of the said minor thereafter given to the petitioner institution for a period of three months as per the order of

the Child Welfare Committee under the provisions of the Juvenile Justice (Care and Protection of the Children) Act, 2015. The said order is on record at page 17. The representation of Indian Council of Social Welfare (for short "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, Thane declared the proposed minor **SARANSH 'Legally Free for Adoption'** on 04/01/2019. The Free for Adoption Order is on record at page 16. The undertaking / affidavit given by the Petitioner is on record at pages 19 to 23.

3 The Central Adoption Resource Authority (CARA), New Delhi has also issued a 'No Objection Certificate' dated 25/03/2019 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. The said no-objection certificate can be found at page 24.

4 The Proposed Adopters are Italian Nationals residing at Vicenza, Italy aged about 42 and 45 years respectively. They have

been married for the past 15 years (08/05/2004) with no biological children. However, they have one adopted son “**Habier**” from Ethiopia aged about 9 years. His birth certificate, proof of citizenship and consent letter is on record at pages 51 and 62 to 68. The family photograph, copies of Passport of the Proposed Adopters are also on record which can be found at pages 25, 30 and 33.

5 The Medical Certificates dated 25/03/2019 of the proposed adopters states that, they are in good and strong physical and mental health which can be found place at pages 77 to 79. Their HIV and HBsAg test reports certify their case as Negative. The test reports find place at pages 83 to 90.

6 The Prospective Adoptive Father is working as a Clerk with the company Proflegno SRL Company, Italy and he earns an annual gross wage of Euros 35,623. His employment certificate is on record at page 93. The Prospective Adoptive Mother is working as a Business Office Clerk with Pietro Fiorentini SPA Company, Italy and she earns an annual gross salary of Euros 22,043. Her employment certificate is on record at page 97. The Income Tax Return for the year 2018 of the proposed adopters / parents are on record at pages 105 to

124.

7 The Bank Reference Letter, Attestation, and Declaration of personal conditions and proof of residence are on record at pages 125 to 146. The childcare arrangement plan declaration is also on record at pages 149 and 226, 227.

8 The Home Study report dated 17/01/2017 by the International Adoption, Italy are on record which are at pages 153 to 160, and states that the prospective adoptive parents appear to be a serene and trust worthy couple. They are already Habier's parents and they appear to be very attentive and loving towards him. The child is of good health and is growing up in a sane and serene way. They show a very good motivation towards the adoption of a second child and they are aware of the possible difficulties which they could face. They have good cultural, economic and emotional resources to face what a second adoption could bring. The Adoption Guarantee Letter issued by the Commission for Inter Country Adoption on behalf of the Government of Italy and Suitability Decree from the Juvenile Court of Venice, Italy are on record which find place at pages 162 to 171. The Guardianship Letter dated 25/03/2019 from the Sister and

brother-in-law of the prospective adoptive father residing at Vicenza, Italy to look after the proposed minor in case of any unforeseen mishap to the proposed adopters is on record at pages 205 to 208.

9 The H.I.V report of the proposed minor dated 20/09/2018 certifies the case of the minor as “**Non-Reactive**”. This report is on record at page 230. The Post Card size photograph of the minor is on record at page 231.

10 The Medical Examination Report (MER) dated 03/12/2018 of the proposed minor is on record and it states that although he has a small head, development is normal for age. Overall the child is physically and mentally normal. Since admission, the baby is gaining adequate weight. The proposed adopters have countersigned the said report. The said report is at pages 214 to 225. Joint Declaration of willingness and undertaking by the proposed adopters is on record at pages 232 to 237.

11 The undertaking dated 20/03/2019 by the Authorized Foreign Adoption Agency “International Adoption” Italy is on record at pages 238 to 240. The General Power of Attorney dated

03/04/2019 in favour of the petitioner institution is on record at pages 242 and 243.

12 The Indian Placement Agency's (Children of the World India Trust, Navi Mumbai) recognition from the Women & Child Development, Maharashtra State, to place the child in adoption is valid up to 31.7.2019.

13 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.

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

- “(a) For the Adoption of the proposed male minor **SARANSH** born on the 30th day of July, 2018 by the Proposed Adopters under Section 59(7) of the Juvenile Justice Act, 2015;
- (b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor **SARANSH**, now in the care and custody of the World India Trust, Vishwabalak Kendra, Plot No.9 and 10, Sector 12, Nerul, Navi Mumbai – 400 706;
- (c) Leave/ permission be granted to apply the concern Municipal

Authorities to issue Birth Certificate of the said minor **SARANSH** and;

- (d) That the Proposed Adopters may be granted leave to remove the said minor **SARANSH** from the jurisdiction of this Hon'ble Court and to take the said minor to **ITALY** or wherever she may reside in the future.”

15. The Judges order is also separately signed.

16. 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.

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

(B.P. COLABAWALLA, J.)