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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. 20 of 2019

WITH

JUDGE'S ORDER No. 114 of 2019

WITH

JUDGE'S ORDER No. 113 of 2019

IN

FOREIGN ADOPTION PETITION No. 20 of 2019.

Janani Ashish Charitable Trust

...Petitioner

And

1) Sabyasachi Bhattacharya,

2) Tarina Rallan

...Proposed Adopters

Mr. Rakesh Kapoor, Advocate for the Petitioner.

Mrs Asha C. Shinde Officer of ICSW present

Ms Tarina Rallan – proposed adopter No.2 present.

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CORAM : B. P. COLABAWALLA, J.

DATED :- 5th July, 2019.

P.C. :-

This Foreign Adoption Petition is for the adoption of a female minor “OBI” born on 20th September, 2014 and a male minor “PRATHMESH” born on 1st October, 2015. Even though the proposed adopters are Indian citizens, they reside in Turkey and hence the Foreign Adoption Petition.

2 The said minors were taken charge of by the Vasai Road Railway Police Station on 22nd May, 2018 and presented before the Child Welfare Committee, Thane on the same day. Thereafter, the custody of the children was given to the petitioner institution as per the order of the Child Welfare Committee, Thane dated 22nd May, 2018. The admission order can be found at page Nos.14 and 15. The representation of the Indian Council of Social Welfare (for short “ICSW”) is also tendered before me and is taken on record and marked “X” for identification.

3. After making due enquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the Child Welfare Committee, Thane has declared that the minors “**OBI**” and “**PRATHMESH**” are legally free for adoption as on 12th February, 2019. The free for adoption order is also on record at page 13 along with the undertaking / affidavit by the petitioner which are at pages 16 to 20.

4. The Central Adoption Resource Authority (for short “CARA”), New Delhi has also issued its 'No Objection Certificate' dated 21st May, 2019 to the adoption of the aforesaid minors 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. This 'No Objection Certificate' can be found at page 21.

5. As mentioned earlier, the proposed Adopters are Indian Nationals but residing at Edirne, Turkey, aged about 37 and 46 years respectively. They have been married for the past 9 years (24/03/2010) and have no biological children. The family photograph and passport copies of the proposed adopters are on record which are at pages 22 to 26.

6 The health report dated 13th December, 2018 of the proposed adopters states that they are both healthy and there is no objection for them to adopt a child. Their anti HIV (Elisa) and HbsAg (Elisa) test report certify the case as Negative. The aforesaid health reports can be found from pages 32 to 47 respectively. As far as the financial condition of the proposed adopters are concerned, it is stated before me that the proposed adoptive mother is the owner and works as a General Manager of the Company Yale Sentetik Yaglar Limited Sti, Edirne, Turkey (family business) since 10th October, 2013 and her annual total salary for the year 2018 is TL 78,000/-. Her income certificate, salary slip for the month of

December 2018 and Tax Certificate from Revenue Administration Republic of Turkey is on record at pages 48 to 58. She also has a company in India along with her family and earned Rs.1.51 Crores for the Assessment Year 2018-19 and her Indian Income Tax Return for the year 2016-17, 2017-18 and 2018-19 is on record at pages 59 to 61. As far as the prospective adoptive father is concerned he has a resident permit in Turkey but is not allowed to work as he does not have a work permit. He however attends his wife's company to assist her. The bank references, supportive financial documents and reference certificate are on record at pages 62 to 80. The Child Care Arrangement Plan declaration by the proposed adopters is also on record at page 81.

7 There is also the Home Study Report dated 27th December, 2018 issued by the Authorities of the Provincial Directorate for Family, Labour and Social Service, Edirne, Turkey. This Home Study Report states that after all the assessment it has been understood that the couples financial and social status, living conditions and standards, inter familial relationship and bonds are sufficient for adopting a child. They have no child through birth and long for a child, and that in the event of adopting a child, the couple has the mental and psychological capacity to assume the care and

responsibility of a child.

8 The psychiatric examination report dated 8.5.2018 of the proposed adopters is also on record and it states that the couple showed no mental or psychological disorder. There is no finding of alcohol or drug addiction. They are culturally, socially and economically motivated to adopt a child. This psychiatric examination report is on record at pages 93 to 95. The Article “5” and “17” letters from the Provincial Directorate for Family, Labour and Social Services - Edirne, Turkey is on record at pages 96 to 97.

9 The brother and sister-in-law of the prospective adoptive mother residing at Cuffe Parade, Mumbai have also executed the child security undertaking dated 12/06/2019 to take care of the child in case of any unforeseen mishap to the proposed adopters. The child Security Undertaking is on record at pages 107 and 108 respectively.

10 The H.I.V. test report of the proposed minors dated 24/12/2018 can be found at pages 133 and 134 which certifies their case as “Negative”. The Post Card size photograph of the minors is at page No.135.

11 The Medical Examination Report of the proposed minor OBI dated 20/11/2018 states that she is a “Normal and active child”. The proposed adopters have countersigned this report. This medical examination report can be found at page Nos. 113 to 120. Similarly the Medical Examination Report of the proposed minor PRATHMESH dated 20/11/2018 states that he is a normal and active child. The proposed adopters have countersigned this report also. The report from Child Specialist dated 28/06/2019, of the proposed minors, is tendered before me in a compilation. The aforesaid report states that both the minors are found medically fit and special attention was also paid to Developmental and Intelligence milestones and found to be well within normal limits. The aforesaid reports are taken on record and marked “X-1” and “X-2” respectively for identification.

12 The Consent, willingness and undertaking by the proposed adopters are also on record at pages 136 to 140. Similarly, the undertakings dated 27/03/2019 by the authorities of Provincial Directorate for Family, Labour and Social Service, Edirne, Turkey is on record at page 141. The Special Power of Attorney duly signed by the Proposed Adopters in favour the Petitioner Institution is also

before me at pages 142 to 148.

13 The Petitioner Institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 31.07.2019.

14 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 said minors if they are adopted by the proposed adopters. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

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

- (a) For the Adoption of the proposed siblings female minor **Obi Bhattacharya** born on 20th September, 2014 and male minor **Tashi Bhattacharya** born on 1st October, 2015 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 minors and shall have all parents rights, privileges and responsibilities over the minors **Obi Bhattacharya & Tashi Bhattacharya**, now in the care and custody of Janani Ashish Trust, Plot P/37, M.I.D.C. Res. Zone, Dombivili (East) – 421 203, Dist. Thane, Maharashtra State;
- (c) That the proposed adopters be allowed to change the name of the

minors OBI to **Obi Tashi Bhattacharya and Prathmesh to Tashi Bhattacharya** respectively;

- (d) Leave/ permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minors **Obi Tashi Bhattacharya and Tashi Bhattacharya**;
- (e) That the Proposed Adopters may be granted leave to remove the said minors **Obi Tashi Bhattacharya and Tashi Bhattacharya** from the jurisdiction of this Hon'ble Court and to take the said minors to **TURKEY** or wherever she may reside in the future.”

16. The Judges order in respect of both the minors is also separately signed.

17. 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.

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

(B.P. COLABAWALLA, J.)