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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. 22 of 2019
WITH
JUDGE'S ORDER No. 118 of 2019
IN
FOREIGN ADOPTION PETITION No. 22 of 2019.**

Janani Ashish Charitable Trust

...Petitioner

And

1) Ravi Gandhi, Italian Nationality

2) Maneesha Sagar, Indian National

...Proposed adopters

Mr. Rakesh Kapoor, Advocate for the Petitioner.

Mrs. Asha C. Shinde, Officer of ICSW is present.

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**CORAM : B. P. COLABAWALLA, J.
DATED :- 5th July, 2019.**

P.C. :-

1. This Foreign Adoption Petition is for the adoption of a male minor "**Prakash**" born on 17th March, 2018. The proposed adopter No.1 is an Italian National of Indian origin and hold an OCI card. Proposed adopter No.2 is an Indian National. The biological mother of the said minor relinquished her child before the Child Welfare Committee, Thane on 23rd March, 2018 and the custody was

given to the petitioner institution as per the order of the said Child Welfare Committee, Thane dated 23rd March, 2018. The said order is on record at page 15. The representation of Indian Council of Social Welfare (for short “ICSW”) is tendered before me and taken on record and marked “X” for identification.

2 After making due enquiry 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 **Prakash 'Legally Free for Adoption'** on 04/01/2019. The Free for Adoption Order is on record at pages 13,14. The undertaking / affidavit by the Petitioner is also on record at pages 16 to 20.

3 The Central Adoption Resource Authority (for short “CARA”), New Delhi has issued their 'No Objection Certificate' dated 29/03/2019 to this adoption as per the 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' is on record at page 21.

4 The first proposed adopter is an Italian National of Indian Origin (OCI Card holder) and the second proposed adopter is an Indian

National, both residing at Soliera, Italy, aged about 49 and 44 years respectively. They have been married for the past 17 years (21/11/2001) with no biological children. The proposed adopters family photograph and passport copies are on record at pages 22, 26 to 35.

5 The health report of the first proposed adopter dated 27/10/2017 states that he is of good general physical health, though affected by bronchial asthma and slight high blood pressure. The said health report is on record at page 64. The health report of the second proposed adopter dated 27/10/2017 also shows that she is in good health. The said report is on record at page 66. The proposed adopters HIV 1 & 2 and HBsAg test report certify the case as 'Negative'. The said report is on record at pages 73 to 76.

6 The prospective adoptive father is working as a 3rd Level Worker with “Ravel” Srl Company since 2002 and his annual wage is 21,634 Euros. The salary certificate is on record at page No.81. His wife is a housewife. The Income Tax Return for the years 2016-17 & 2017-18 are on record at pages 91,92 and 102,103.

7 The Bank Certificates, Attestation and Declaration of personal conditions and updated residence certificate are on record at pages 108 to 123. The childcare arrangement plan declaration by the proposed adopters is on record at page 126.

8 The home study report dated 04/05/2018 by the authorities of “International Adoption”, Italy is on record at pages 130 to 136 which states that the proposed adopters own a house since 2006, it is of 98 sq. meters near the city centre, very close to schools and shops. The couple shows an authentic adoptive parenthood desire. A discreet elaboration of the grief connected to the lack of biological generativity emerges on behalf of both of the partners. They appear as a solid, harmonious couple and with a lot of harmony between them and they have a very good relationship with their families of origin and with their actual cultural origin and religious traditions. Due to their characteristics, the writer retains that the married couple has all the necessary resources to welcome and emotionally sustain a child with an age within 5 years and 364 days at the moment of placement.

9 The psychological evaluation report dated 24/03/2018 of the proposed adopters is on record and it states that during all the

interviews which the couple have undergone that they have given no sign of psychological fragility and have always appeared to be well balanced and rather calm. Also they are certainly well aware of Indian culture and tradition and will certainly help the child to maintain a bond with the country of origin. The said report is on record at pages 137, 138.

10 The Adoption Guarantee Letter issued by the Commission for Inter Country Adoption on behalf of the Government of Italy and Suitability Decree from Juvenile Court of Emilia Romagna Bologna, Italy is on record at pages 140 to 145.

11 The child security / guardianship letter from the proposed adopters' family friends resident in Italy to take care of the child in case of any unforeseen mishap to the proposed adopters is on record at page 175.

12 The H.I.V. test report of the proposed minor dated 26/09/2018 is on record which certifies as 'Negative'. The said certificate finds place at page No.204. The Post Card size photograph of the minor is on record at page 205. The Medical Examination Report

dated 03/01/2019 of the proposed minor states that the child is failure to thrive. Developmental assessment is done for the child and as per the assessment report, Master Prakash is a child with special needs. The proposed adopters have countersigned this report. The said report is on record at pages 183 to 190.

13 The Developmental Assessment Report of the minor dated 28/11/2018 is on record at pages 193 to 202 which states that, Prakash's physical, cognitive, communication and general development is below average. The proposed adopters have countersigned this report.

14 The letter of acceptance and undertaking by the prospective adoptive parents is on record at pages 206 to 209. The undertaking dated 13/03/2019 by the Authorized Foreign Adoption Agency "International Adoption", Italy is on record at pages 212 and 213.

15 The special Power of Attorney duly signed by the proposed adopters in favour the petitioner institution is on record at pages 216 and 217. The Indian Placement Agency's (Janani Ashish Charitable

Trust, Dombivli, Dist. Thane) recognition from the Women & Child Development, Maharashtra State, to place children in adoption is valid up to 31.07.2019.

16. 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.

17. 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 **Prakash** born on the 17th March, 2018 by the proposed adopters under Section 59(7) of the Juvenile Justice Act, 2015;
- (b) For declaring the proposed adopters as adoptive parent of the said minor and shall have all parents rights, privileges and responsibilities over the minor **Prakash** now in the care and custody of Janani Ashish Charitable Trust, Plot P/37, M.I.D.C. Res. Zone, Dombivili (East) – 421 203, Dist. Thane, Maharashtra State;
- (c) Leave/ permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor **Prakash**; and;
- (d) That the Proposed Adopters may be granted leave to remove the said minor **Prakash** from the jurisdiction of this Hon'ble Court

and to take the said minor to **ITALY** or wherever they may reside in future.”

18. The Judges order is also separately signed.

19. 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.

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

(B.P. COLABAWALLA, J.)