

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

FOREIGN ADOPTION PETITION No. 24 of 2019

WITH

JUDGE'S ORDER No. 120 of 2019

Indian Association for Promotion of	]	
Adoption & Child Welfare, 7, Kanara	]	
Brotherhood CHS Ltd. Mogul Lane,	]	
Matunga (W), Mumbai-400 016	]	
through Smt. Savita Nagpurkar.	]	..Petitioner.

And

1) Alan Galea of Maltese National	]	
age 38 years.	]	
	]	
2) Audrey Galea Spiteri wife of	]	
Alan Galea also of Maltese	]	
aged 46 years,	]	..Proposed
		Adopters.

Smt. Lalita Jaya Raj for the Petitioner.

Mr. O. Harendran, Scrutiny Officer of ICSW present.

CORAM : B. P. COLABAWALLA, J.

DATED :- 11th July, 2019.

P.C. :-

1. This Foreign Adoption Petition is for the adoption of a female minor "KANAK" born on 24th February, 2018 by

Maltese Nationals residing at Mosta, Malta. The biological mother of the female minor relinquished the child before the Child Welfare Committee, Mumbai City on 8th March, 2018 and safe custody was given to the petitioner Institution as per the safe custody order dated 8th March, 2018. The said order is on record at page 40. The representation of the Indian Council of Social Welfare (ICSW) is 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 II declared the proposed minor KANAK legally free for adoption as on 6th July, 2018. The Free for adoption Certificate is on record at page Nos. 42 and 42-A. The undertaking/affidavit by the Petitioner is also on record at page Nos. 31 to 34.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued a No Objection Certificate dated 12/06/2019 to this adoption 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 NOC is on record at page No. 45 of the paper book.

4. The proposed adopters are Maltese Nationals residing at Mosta, Malta aged about 39 and 47 years respectively. They have been married for the past 12 years (23/12/2006) with no biological children. However, they have one adopted son “Luca Galea” aged about 3 years from Buldana, Maharashtra. His birth certificate and Indian Adoption Judgment dated 21/02/2017 delivered by Principal District Judge, Buldana is on record at page Nos. 13, 19 to 23. Passport copies and Family Photo of the adoptive parents are on record at page Nos. 16, 17 and 76.

5. The health reports dated 31/05/2019 of the proposed adopters are on record and it states, “They are physically and mentally fit”. Their HIV p24Ag and Hepatitis B Surface Antigen test reports certifies the case as Negative. The said report are at page Nos. 105 to 112.

6. The health report dated 01/06/2019 of the adopted son is also on record and it states, "Fit and fully immunized". His HIV p24Ag and Hepatitis "B" Surface Antigen test reports certifies the case as Negative. The said reports are at page Nos. 113-113G of the paper book.

7. The prospective adoptive father is working as a Finance and Administrative Manager with Central Insurance Brokers Ltd., Malta since 2014 and his earnings for the year 2018 is of 58,214 Euros. His employment/income certificate is on record at page 48. The prospective adoptive mother is working as a Teacher with San Andrea School, Malta since 1996 and her income for the year 2018 was 8,111 Euros (at page No. 49). The income tax papers for the years 2017 and 2018 are on record at page Nos. 50 to 53. The financial statement and Bank Reference are on record at page Nos. 46,47, 54 and 56. The child care arrangement declaration is also on record at page 57.

8. The Home Study report dated 17/09/2018 by the authorities "Agenzija Tama, Malta" is at page Nos. 79 to 89

and it states, “The Prospective Adoptive Parents has shown that adoption is a subject matter close to their heart, not simply because they want to expand their family, but because they view adoption as mutually beneficial. The couple feels very strongly about adopting a second child and offering a child a safe, nurturing and loving environment full of the positive aspects that they may give. Their home is spacious enough to house children of different genders and aware of the difficulties the child may bring from abroad. After all assessment the worker is of the view that there are no concerns on the Proposed Adopters capabilities, skills and parental capacity to adopt a second child between the ages of zero to three years old”.

9. The psychological evaluation report dated 12/09/2013 and 19/09/2018 states the psychological assessment strongly indicate the readiness and capability of the adoptive parents to adopt. The couple’s altruistic desire to help a needy child in need is both commendable and encouraging. The said psychological evaluation report is at page Nos. 93 to 101.

10. The Article 17 (c) letter dated 25/04/2019 and Article-5 letter dated 18/12/2018 from the Social Care Standards Authority (SCSA), Malta are also on record at page Nos. 43 to 44.

11. The child security-undertaking letter from the sister and brother-in-law of the Proposed Adoptive mother residing at Malta to look after the proposed minor in case of any unforeseen mishap to the Proposed Adopters is on record at page-57-A. The Post Card size photograph of the minor is on at page No. 77.

12. The Medical Examination Report (MER) of the minor Kanak dated 13/01/2019 states, "Overall observations about the child: The child has grown well, Anthropometric parameters are also normal for age. Motor milestones are minimal delayed. Social, mental milestones are appropriate for the age". The proposed adopters have countersigned this report along with other investigation reports at page Nos. 117 to 154.

13. As regards the change of name, the proposed adoptive parents desire that the minor '**Kanak**' be renamed as "Nina Lucia Galea". It is accordingly so ordered.

14. The H.I.V I & II report of the proposed minor dated 31/08/2018 certifies the case as Non-reactive . This report is at page No. 131 of the paper book. The Joint Declaration of willingness and undertaking by the proposed adopters is on record at page Nos. 102 and 103.

15. The undertaking dated 01/01/2018 by the Authorized Foreign Adoption Agency "Agenzija Tama" Malta is on record at page No.104. The Power of Attorney dated 06/05/2019 in favour of the Petitioner Institution is on record at Page Nos. 37 to 39.

16. The petitioner Pnstitution's recognition from the State Government to place children in adoption is valid for a period from 01/08/2014 to 31/07/2019.

17. 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 she is adopted by the proposed Adopters. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

18. In view of the foregoing discussion, the petition is allowed in terms of prayer clauses (a), (b) and (c) which read thus:-

- a) The Hon'ble Court may be pleased to appoint the Adopters as adopting parents of the person of female minor KANAK now in the care and custody of the Petitioners: I.A.P.A & C.W. Matunga (W), Mumbai – 400 016;
- b) That the Adopters be granted leave by this Hon'ble Court to remove KANAK outside the jurisdiction of this Hon'ble Court; and
- c) That the Petitioners/Adopters be granted leave to apply to the Municipal authorities to issue Birth Certificate of the minor KANAK showing the first adopter ALANA GALEA as the adoptive father and his wife the second adopter AUDREY GALEA SPITERI as the adoptive mother respectively;

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,

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.)