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Dhanappa
I. Koshti
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Dhanappa I. Koshti
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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. 44 of 2019
WITH
JUDGE'S ORDER No. 125 of 2019
IN
INDIAN ADOPTION PETITION No. 44 of 2019.

M.S.W.C. Asha Sadan Balgruh

...Petitioner

And

1) Mr Vipul Jain,
2) Mrs Kavita Jain

...Proposed adopters

Mrs.Varsha Bhogle Deshmukh a/w Vrushali Jadhav, Advocate for
the Petitioner.

Mr O. Hareendran Scrutiny Officer of ICSW is present.

CORAM : B. P. COLABAWALLA, J.
DATED :- 25th July, 2019.

P.C. :-

1. This Indian Adoption Petition is for the adoption of a male minor "Akshat" born on 13th September, 2018. The biological mother of the minor surrendered her child before the Child Welfare Committee, Mumbai on 19th September, 2018 and the child's custody was given to the Petitioner Institution on the same day as per the safe custody order passed by the Child Welfare Committee, Mumbai

dated 19th September, 2018. This order can be found at page 20 of the paper book. The representation from the Indian Council of Social Welfare (“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, Mumbai City I declared the proposed minor “**Akshat**” as “**Legally Free for Adoption**” on **28/11/2018**. The Free for Adoption order is on record at pages 21 and 22.

3. The Proposed Adopters are residing at Pune aged about 42 and 39 years respectively. They have been married for the past 12 years (20/02/2007) with one biological daughter “**Eva**” aged about 9 years. Her health reports, birth certificate and consent letter is on record at pages 54-56 and 61-63. The Family photograph is on record at page 111.

4. The first proposed adopter was previously married to one Bhavna Jain who passed away on 13/09/2006 and has no biological children from this marriage. Her Death Certificate is on record at pages 36 and 37.

5. The learned advocate appearing on behalf of the petitioner has also tendered before me a Motivation Letter dated 19th July, 2019 signed by the proposed adopters which *inter alia* states that they always wanted to adopt a child and by adopting this child they will be a complete family. The said Motivation Letter is taken on record and marked “X-1” for identification.

6. The Decision of Adoption Committee dated 24/05/2019 is on record and the Committee decided that the prospective adoptive parents are suitable to adopt the child Akshat, born on 13/09/2018. The said minutes are on record at pages 18 and 19.

7. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) is also on record at pages 116 to 120.

8. The Health report of the prospective adoptive parents dated 06/06/2019 is on record and it states, “the health of the prospective adoptive parents do not disqualify them in parenting a child in anyway”. Their HIV Combo and HBsAg, test reports certifies the case as Non-reactive. The said health reports are at pages 47 to 53 of the paper book.

9. The Prospective Adoptive father is self-employed (Pharmaceutical Distributors in the name and style as “Wellness India”) and his income for the Assessment Year 2018-19 is Rs.61,22,554/-. His Certificate of Provisional Registration and Income Tax returns for the Assessment Years 2016-17, 2017-18 and 2018-19 are on record at pages 67 to 70. The Prospective Adoptive Mother is a Homemaker. The copies of PAN Card and Aadhar Card, Proof of residence, Bank statements and other supportive financial documents are on record at pages 42 to 45, 64 to 66 and 71, 72.

10. The childcare arrangement undertaking is on record at pages 33 to 35.

11. The home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at pages 73 to 79. The part II: Assessment report of the Social Worker of Samarpan Foundation, Pune as authorized by the Specialized Adoption Agency- Pandita Ramabai Mukti Mission, Pune (Home visit done 27/03/2017) is on record and it states that the prospective adoptive parents come across to be a caring and responsible couple. They both seem to share a strong and stable marital relationship. They

are financially secure and have overall a good support from their relatives and friends in their decision to adopt. After all the assessment the social worker recommended them for the adoption of a male child below the age of 2 years. Part-II Assessment Report is on record at pages 80 to 87 of the paper book. An authorization undertaking from Pandita Ramabai Mukti Mission to Samarpan Programme for Adoption Research Counselling Consultancy & Care (for short "SPARCC") which *inter alia* authorizes SPARCC to do the home study for the above mentioned prospective adoptive parents on their behalf is also tendered before me. All the respective follow-up visits and reports shall be done by SPARCC, Pune. This authorization and undertaking tendered before me, is taken on record and marked "X-2" for identification.

12. The child security undertaking dated 11/01/2019 given by the brother and sister-in-law of the Prospective Adoptive mother residing at Thane to look after the proposed minor in case of any mishap to the Prospective Adoptive Parents is on record at pages 112 to 114.

13. The Post Cared Size Photograph of the minor is on record at page 24.

14. The Joint Declaration of consent & willingness of the prospective adoptive parents are on record at page 41.

15. The Medical Examination Report of the proposed minor 'Akshat' dated 15/01/2019 is on record and it states "A normal, healthy infant". The proposed adopters have countersigned the said report which is on record at page Nos.96 to 100 of the paper book.

16. The HIV report of the proposed minor dated 25/12/2018 certifies the case as Negative. The said report is on record at page Nos.101 to 109.

17. The Pre-adoption foster care undertaking dated 10/06/2019 is also on record at pages 25 to 31.

18. As regards the change of name, the proposed Adopters desire that the minor '**Akshat**' be renamed as "**Rivaan Vipul Jain**". It is accordingly so ordered.

19. Pandita Ramabai Mukti Mission, Pune has also given an undertaking for furnishing the post adoption follow up reports in

relation to the aforesaid adoption. This undertaking is dated 16th June, 2019 and is tendered before me and taken on record and marked "X-3" for identification.

20. The Petitioner Institution's recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period up to 31/12/2018. However, the learned advocate appearing on behalf of the petitioner has stated before me that the Petitioner Institution has applied for renewal and in the interregnum the present Adoption Petition has been filed under the provisions of Regulation 24 (5) of the Adoption Regulations, 2017.

21. The proposed adoptive parents are also before me and have undertaken to this Court that they shall create a Fixed Deposit in a Nationalized Bank in the name of the minor in the sum of Rs.1,50,000/- till the minor attains majority. The said undertaking is also accepted.

22. Looking to all these 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.

23. In view of the foregoing 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, Mr. Vipul Jain and Mrs. Kavita Jain, the adoptive parents of the male minor, Akshat @ Rivaan Vipul Jain, in the care of the M.S.W.C. Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai-400 009;
- (b) That the Co-petitioners be allowed to change the name of the minor “**Akshat**” to “**Rivaan Vipul Jain**”
- (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 along with them, i.e., to the Co-Petitioner's family wherever they may reside or their work may require them to;
- (d) That the Co-Petitioners, Mr. Vipul Jain and Mrs. Kavita Jain may be granted leave to make an application to the passport authorities or any other authorities for the same;
- (e) That the concerned Municipal Corporations/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 Petitioners, as per the provisions of Regulation 35 of the Adoption Regulations, 2017.”

24. The Judges order is also separately signed.

25. 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.

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

(B.P. COLABAWALLA, J.)