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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. 27 of 2019

WITH

JUDGE'S ORDER No. 131 of 2019

WITH

JUDGE'S ORDER No. 132 of 2019

IN

FOREIGN ADOPTION PETITION No. 27 of 2019.

Bal Asha Trust

...Petitioner

And

1) Jeffrey Gordon Spence, Canadian National

2) Melissa Sue Spence, Canadian National ...Proposed Adopters

Mr. Rakesh Kapoor, Advocate for the Petitioner.

Mr O. Hareendran, Scrutiny Officer of ICSW is present

CORAM : B. P. COLABAWALLA, J.

DATED :- 25th July, 2019.

P.C. :-

This Foreign Adoption Petition has been filed for the adoption of two female siblings "Riddhi" born on 15th September, 2015 and "Siddhi" born on 24th July, 2016. The said siblings were taken charge of by Kalyan Railway Police Station, District : Thane on 26th February, 2018 and admitted in Janani Ashish Charitable Trust, Dombivli, Thane on the same day. Thereafter on 27th February,

2018, the aforesaid siblings were transferred to the Petitioner institution by the order of the Child Welfare Committee, Thane and Mumbai City II for further rehabilitation. The learned advocate appearing on behalf of the petitioner has tendered a compilation of documents which is taken on record and marked “X” for identification. The representation of the Indian Council of Social Welfare (for short “ICSW”) is also tendered before me and taken on record and marked “X-1” 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 minors **Riddhi & Siddhi** are “**Legally Free for Adoption**” as on 06/02/2019. The Free for adoption Certificates are on record at pages 15 to 17.

3 The Central Adoption Resource Authority (CARA), New Delhi had issued a 'No Objection Certificate' dated 31/03/2019 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. This NOC is on record at page No.27 of the paper book.

4 The undertaking/affidavit by the Petitioner institution is on record at pages 22 to 26.

5 The Proposed Adopters are Canadian Nationals residing at Ontario, Canada both aged about 41 years. They have been married for the past 13 years (19/08/2005) with no biological children. The Proposed Adopters Family Photograph and Passport Copies are on record at pages 28, 31 and 32 of the paper book.

6 The Health reports dated 11/08/2017 of the proposed adopters is on record and it states, from the medical perspective and mental health review this couple would certainly be very suitable applicants to adopt a child at this time". Their HIV 1 & 2 and Hepatitis B Test Reports certify the case as 'Non-reactive'. The aforesaid Health Reports can be found on pages 38 to 48 of the paper book and HIV and HB Test Reports can be found at pages 5 to 10 of the compilation tendered before me today and marked "X" for identification.

7 The first Proposed Adopter is working as a Regular Force Non-Commissioned Member (Soldier) in the Canadian Armed Forces since 16/09/1999 and his Annual Income including allowances is of

\$104,748.00. The said statement of earning is at page 60 of the paper book. The second proposed adopter is also working with Regular Force Non-Commissioned Member (Imagery Technician) in the Canadian Armed Forces since 22/08/2006 and her yearly salary is of \$66,192.00. The letter of employment is at page 61 of the paper book.

8 The Income Tax Assessment for the Tax Years 2016, 2017 and 2018 are on record at pages 63 to 66 and 67 to 67F of the paper books as well as pages 11 to 18 of the compilation tendered before me today and marked "X" for identification.

9 Bank reference and Proof of Residence/Property are on record at pages 62 and 67 of the paper book.

10 The Childcare Arrangements Plan declaration from the proposed adopters is on record at page 95A of the paper book.

11 The home study report dated 28/11/2017 of the proposed adopters conducted by Approved Adoption Practitioner, Sandra J. Forbes, RSW, Eastern Ontario, Canada is on record and it

states, the Prospective Adoptive Parents are a close, healthy, financially secure couple. They have a stable loving and respectful relationship. They have approached the adoption process with enthusiasm and demonstrated resourcefulness and a willingness to be flexible. They are open and suited to adopt a single child or a sibling group of two with attachment issues, attention deficit problems, unknown birth history, correctable medical problems or missing digits. Based upon the assessment, the assessor recommended that the Prospective Adoptive Parents be approved to adopt through international adoption, a child or a sibling group of two children of either sex, healthy or with minor medical/developmental conditions up to the age of 48 months at the time of proposal from India. The said reports are on record at pages 70 to 82 of the paper book.

12 The Psychological Assessment Report dated 09/03/2018 of the proposed adopters is on record and it states that their psychological assessment, including an interview and psychometric measures, consistently suggest a healthy functioning in every aspect of their lives, without any psychological problem. The said reports are on record at pages 49 to 57 of the paper book.

13 The letter of approval dated 31/01/2018 from the Ministry of Children and Youth Services, Ontario, Canada and Article 17, the letter issued by Ontario Ministry of Children, Community and Social Services dated 23/04/2019 are on record at pages 83 to 87 of the paper book.

14 The H.I.V. report of the proposed minors dated 05/04/2018 certifies the case as Non-reactive. The said reports are on record at pages 118A and 147A of the paper book. Post Card size photographs of the minors are on record at pages 161 and 161A of the paper book.

15 The Medical Examination report of the minor Riddhi dated 11/02/2019 is on record and it states that after an over all observation of the child Riddhi, she is pleasant girl. She is currently studying in Nursery in Maratha High School. The Proposed Adopters have countersigned this Report and can be found at pages 100 to 105 of the paper book. Her latest Report of Psychological Testing dated 18/01/2019 is on record and it states that her Intellectual Quotient (I.Q.) is 105 and Social Quotient (S.Q.) is 105. Overall Impression shows that she has Average Intellectual function and Average social functioning. The Proposed Adopters have

countersigned this Report which is on record at pages 124 to 126 of the paper book.

16 The Medical Examination report of the minor Siddhi dated 11/02/2019 is on record and it states that on an over all observation of the child Siddhi, she is a quiet girl. She has developmental delay with DQ of 69%. The Proposed Adopters have countersigned this Report which is on record at pages 133 to 138 of the paper book. Her latest Report of Psychological Testing dated 18/01/2019 is on record and it states her Developmental Quotient (D.Q.) is 69% indicating developmental delay. The Proposed Adopters have countersigned this Report which is on record at page Nos.153 to 155.

17 As regards the change of name, the proposed adopters desire that the minor 'Riddhi' be renamed as "**Mara Riddhi Spence**" and 'Siddhi' be renamed as "**Cora Siddhi Spence**". Those applications are on record at pages 159 and 160 of the paper book. It is accordingly so ordered.

18 The consent, willingness, and undertakings by the proposed adopters are on record at pages 164 to 173 of the paper book.

19 The undertaking dated 28/03/2019 from the Authorized Foreign Adoption Agency (AFAA), “Cornerstone Adoption Agency”, Ontario, Canada to provide progress reports of the children for a period of two years and make alternative arrangement in the event of death or disruption in the adoptive family, is on record at page 174 of the paper book.

20 The Special Power of Attorney duly signed by the proposed adopters in favour of the Petitioner institution is on record at pages 176 and 177.

21 The Indian Placement Agency’s (Bal Asha Trust, Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period from 01/08/2014 to 31/07/2019.

22 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.

23. 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 female minors **Mara Riddhi Spence** born on 15/09/2015 and **Cora Siddhi Spence** born on 24th July, 2016 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 **Mara Riddhi Spence & Cora Siddhi Spence**, now in the care and custody of Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai 400 011;
- (c) That the proposed adopters be allowed to change the name of the minors “**Riddhi**” to **Mara Riddhi Spence** and “**Siddhi**” to **Cora Siddhi Spence** respectively;
- (d) Leave/ permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minors **Mara Riddhi Spence and Cora Siddhi Spence**;
- (e) That the Proposed Adopters may be granted leave to remove the said minors **Mara Riddhi Spence and Cora Siddhi Spence** from the jurisdiction of this Hon'ble Court and to take the said minors to **CANADA** or wherever they may reside in future.”

24 The Judges order in respect of both the minors 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 minors 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.)