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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. 26 OF 2019
WITH
JUDGE'S ORDER No. 123 OF 2019**

Radhakishan
S. Ladda

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Children of the World India Trust,]
Vishwabalak Kendra, Plot No. 9 &]
10, Sector- 12, Nerual, Navi]
Mumbai- 400 706.]Petitioner.

AND

1. Simone Ribeca, Italian]
National, aged 41 years,]
]]
]]
2. Luna Trotti, Italian National,]
aged 38 years,]
]Proposed Adopters

Mr. Rakesh Kapoor, i/by M/s Rakesh K.L. Kapoor
& Co., Advocate for the Petitioner-Institution.
Mr. O. Hareendran, Scrutiny Officer of ICSW
present.

**CORAM :- B. P. COLABAWALLA, J.
DATED :- 18th July, 2019.**

P.C. :-

1. This Foreign Adoption Petition has been filed for
adoption of a female minor "APARNA" born on 8th September,

2017. The proposed Adopters are Foreign Nationals, residing at Terni, Itali. The female minor Aparna was found abandoned by the Badlapur Police Station, District Thane on 5th January, 2018 and brought before the Child Welfare Committee on the same day. The custody of the said minor was then given to the petitioner-Institution as per the safe custody of the Child Welfare Committee dated 5th January, 2018 passed under the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short the Juvenile Justice Act). The aforesaid order is on record at page No. 16 of the paper book. The representation of 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 Act, 2015, the Child Welfare Committee, Thane declared the proposed minor Aparna, legally free for adoption as on 4th January, 2019. The free for adoption order is on record at page No. 15. The undertaking/affidavit by the Petitioner-Institution is also on record at page Nos. 20 to 24.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued a No Objection Certificate dated 31st March,

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. 25 of the paper book.

4. The proposed Adopters are Italian Nationals, residing at Terni, Italy, aged about 41 and 38 years respectively. They have been married for the past 7 years (25th June, 2011) with no biological children. The Family Photograph and Passport copies of the proposed Adopters are on record at page Nos. 26 to 33.

5. The health reports dated 23rd October, 2018 of the proposed Adopters are on record and it states the Adopters are not affected by any chronic, venereal, contagious or terminal diseases and do not present any physical or mental condition that can prevent them to take care of a minor. Their HIV and hepatitis “B” test reports certify the case as Negative. The said reports are at page Nos. 63 to 74.

6. The prospective adoptive father is working as an Assistant Public Prosecutor with the General Command of Carabinieri, National Administrative Centre, Economic Treatment Service, Italy since 29th June, 1998 and his total

taxable income for the fiscal year 2017 is Euro 27,988.73. The Salary Competences Prospectus of the prospective adoptive father is at page 75 of the paper book. The Income Tax Certificate for the Income-tax Assessment Years 2015, 2016 and 2017 is on record at page Nos. 84 to 95. Bank References, Self-certification of financial assets, property declaration and statement of immovable property are on record at page Nos. 96 to 116. The prospective adoptive mother is unemployed at the moment. The childcare arrangement Plan declaration is on record at page No.119.

7. The Home Study report dated 19th November, 2018 by the authorities of “Lo Scoiattolo ONLUS” Terni, Italy is on record on at page Nos. 123-132 and it states that the prospective Adoptive Parents are a close-knit couple, accomplished and emotionally very solid. They wish to complete the family and have a strong motivation to welcome a daughter. After all assessment, the Association believes the spouses Ribeca Simone and Trotti Luna, are appropriate to adopt a female child aged between 2 and 4 years, and also she is included in the special needs, with resolvable problems and curable.

8. The Psychological Assessment Report of the proposed Adopters dated 19th November, 2018 states that after all assessment, the wish of the proposed Adopters to adopt a female child, aged between 2 and 4 years, conforms the emotional possibilities of the couple, who are ready to face together and realize their wish to become adoptive parents. The said psychological assessment report is at page Nos. 151 and 152.

9. The Adoption Guarantee Letter issued by the Commission for Intercountry Adoption on behalf of the Government of Italy and Article 17 letter dated 16th April, 2019 from the Presidency of the Council of Ministers, Commission for International Adoptions, Italy are on record at page Nos. 157 to 160.

10. The H.I.V report of the proposed minor dated 18th November, 2018 certifies the case as Non-Reactive. The said report is at page No. 199 of the paper book. The Post Card size photograph of the minor is at page No. 200.

11. The Medical Examination Report (MER) dated 3rd January, 2019 of the minor "APARNA" is on record and it states "Bilateral otitis media, child was severely malnourished but now

improving both physically and mentally. However, she has mild speech delay. Over all observation of the child: Child has not gained adequate weight, but mentally normal". The proposed Adopters have countersigned the said report at page Nos. 191 to 198.

12. Joint Declaration of willingness by the proposed Adopters is on record at page Nos. 203 to 215. The undertaking dated 13th June, 2018 by the Authorized Foreign Adoption Agency "Lo Scoiattolo ONLUS" Terni, Italy to furnish follow-up reports is also on record at page No. 219 of the paper book. The General Power of Attorney dated 17th April, 2019 in favour of the petitioner Institution can be found at page Nos. 221 to 224.

13. The petitioner Institution's recognition from the Women and Child Development Department, Government of Maharashtra to place children in adoption is valid for a period upto 31st July, 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 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.

15. 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 female minor **APARNA** born on the 8th day of September, 2017 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 minor and shall have all parents rights, privileges and responsibilities over the said minor child **APARNA** now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot No. 9 & 10, Sector- 12, Nerul, Navi Mumbai – 400 706;

(c) Leave / permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor **APARNA**; and

(d) That the Proposed Adopters may be granted leave to remove the said minor **APARNA** from the jurisdiction of this Hon'ble Court and to take the said minor to ITALY or wherever they may reside in future.

16. The Judge's Order 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, a copy of the same shall be filed on the record of this Court.

18. The Adoption Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)