

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

**FOREIGN ADOPTION PETITION NO. 29 of 2019
WITH
JUDGE'S ORDER NO. 144 OF 2019
IN
FOREIGN ADOPTION PETITION NO. 29 of 2019.**

1) Vatsalya Trust]Petitioner.

And

1) Mr. Jeremy Warren Joslyn]
age 31 years]

2) Mrs. Addie Beulah Joslyn]Proposed
Age 30 years]Adopters.

Both residing at 496, Washington Road
Jefferson Maine, Lincoln Country,USA.

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Ms. Sangeeta A. Nagpal, Advocate for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer of ICSW.

**CORAM : B. P. COLABAWALLA, J.
DATED :- 8th August, 2019.**

P.C. :-

1. This Foreign Adoption Petition is for the adoption of a female minor “SHAMIKA” born on 22ND February, 2015 by Foreign Nationals. The biological mother relinquished the said child before the Child Welfare Committee, Mumbai Suburban District on 9th March, 2015 and the custody was given to the said petitioner Institution as per the order dated 9th March, 2015 under Section 33 (1) of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. The admission order is at page 20 of the petition. The representation of Indian Council of Social Welfare (ICSW) is tendered before me and taken on record and marked “X” for identification. The learned Advocate appearing on behalf of the petitioner has also tendered a compilation of documents which is taken on record and marked as “X-1” Colly.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, 2015, the Child Welfare Committee, Mumbai Suburban District has declared that the proposed minor “SHAMIKA” is legally free for adoption as on 8th March, 2019. A Certificate declaring the child free for adoption is also on the record of this Court at page Nos. 17 and 18 respectively. The undertaking / affidavit by the petitioner is on record at page Nos. 175 to 177.

3. The Central Adoption Resource Authority (CARA), New Delhi has also issued its No Objection Certificate dated 29th March, 2019 to the aforesaid 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 No Objection Certificate can be found at page 14 of the paper book.

4. The proposed Adopters are American Nationals residing at Maine, U.S.A., and are about 31 and 30 years old respectively. They have been married for the past 10 years (11th July, 2009). They have two biological sons, aged about 8 and 5 years respectively. Their birth certificates, health reports and consent letter are on record at page Nos. 26 to 28, 71,72 and 113 and 114 respectively. The proposed Adopters Family photo and Passport copies are also on record at page Nos. 118 to 120 and 141 respectively.

5. The health report of the proposed Adopters dated 01/07/2019 is on record at page Nos. 63 to 69 and it states, that they do not have any physical or mental health disorders that would prevent them from adopting and caring for a child. The HIV

Hepatitis “B” Test Reports of the proposed adoptive mother are on record at page Nos. 63 to 69. However, the HIV test report of the proposed adoptive father was not on record and the same has now been tendered before me and which forms part of the compilation marked as **“X-1” Colly** at Sr. No.1. In other words, now the HIV and Hepatitis “B” test reports of both the proposed adoptive parents are on record and they certify the case as Non-Reactive.

6. As far as their financial condition is concerned, the Prospective Adoptive Father is working as a Yard Supervisor with Rockport Granite Inc. since November 2017 and his annual gross salary is \$ 78,000. The certificate to that effect is at page No.34. The Prospective Adoptive Mother is a Homemaker. The U.S. Individual Income Tax Return for the years 2016, 2017 and 2018 of the Proposed Adopters are on record at page Nos. 36 to 48. The declaration of financial status and proof of residence are also on record and which can be found at page Nos.49 to 57 of the paper book.

7. The childcare Arrangement Letter from the proposed Adopters is on record and can be found at page No.110 of the paper

book.

8. The home study report dated 12/10/2018 by the authorities of “The Maine Children’s Home for Little Wanderers”, USA is on record and it states, the prospective adoptive parents have been married for nine years. They exhibit respect, a strong love for one another and a commitment to their relationship. They value having a strong spiritual background, family unit and good friendships. The couple immensely enjoy their parenting experience of their two children and look forward to sharing their love and lives with an additional child. They have carefully thought through their decision to adopt and are very motivated to make it happen. After all assessment, the Adoption Case Worker found the couple to be emotionally stable, financially sound and in good health and approved to adopt a female child 0 to 4 years of age at the time of referral. The said home study report is at page Nos. 126 to 140 of the paper book.

9. The Psychological Evaluation dated 27/07/2018 of the proposed adopters is on record and it states that based on the evaluation, the Clinical Psychologist is of the view that the

prospective adoptive parents' emotional and mental health is suitable for raising an internationally adopted child and support their decision to attempt to adopt a child from India. The said psychological evaluation can be found at page Nos. 77 to 100 of the paper book.

10. The **"Article 5"** letter dated 26th April, 2019 from the Embassy of the United States of America, Office of Children's Issues, U.S. Department of State, Washington, D. C. is tendered before me and which forms a part of the compilation marked as **"X-1" Colly** at Sr.No.2.

11. The child security undertaking dated 10/11/2018 from the Proposed Adoptive mother's brother and sister-in-law residing at Maine, U.S.A. to look after the proposed minor in case of any unforeseen mishap to the Proposed Adopters is also on record at page No.148.

12. The H.I.V. report of the proposed minor dated 03/05/2019 certifies the case as Negative (Pg. 157). The Post Card size photograph of the minor is also on record and can be found at

page No. 160.

13. The Medical Examination Report of the proposed minor Shamika dated 27/02/2019 states, that the child has failure to thrive (growth retardation) due to chronic renal disease, distal Renal Tubular Acidosis. Since the last six months the child has normal mental development and mental milestones are within normal limits. The proposed Adopters have countersigned this report which can be found at page Nos. 152 to 156.

14. The I.Q. Test Report of the proposed minor dated 1st August, 2019 is also tendered before me and which forms a part of the compilation marked as **“X-1” Colly** at Sr. No.3. This report states that the child has obtained the Wechsler’s I.Q. of 104.7. Her comprehension, memory, speed and logical reasoning is in the average range which indicates that the child has average intelligence and she is a child with general cognitive abilities.

15. The undertaking from the prospective adoptive parents is also on record at page No. 164 of the petition.

16. The undertaking from the Authorized Foreign Adoption

Agency “International Adoption Net”, U.S.A., dated 14th March, 2019 is tendered before me and which forms a part of the compilation marked as **“X-1” Colly** at Sr.No.4. This undertaking is given by the aforesaid agency to provide post adoption progress reports of the child for a period of two years and also to make an alternative arrangement in the event of disruption in the adoptive family.

17. The Power of Attorney from the Proposed Adopters in favour of the Petitioner institution & Advocate is also before me at page Nos. 169 and 170.

18. The Indian Placement Agency's (St. Vatsalya Trust Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period from 1st April, 2016 to 31st March, 2021.

19. 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.

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

- (a) For adoption of the Proposed female minor Baby SHAMIKA born on 22.02.2015 by the Proposed Adopters under 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 Baby SHAMIKA, now in care and custody of Vatsalya Trust, Mumbai; and
- (c) That the Proposed Adopters be granted leave to remove the said minor Baby SHAMIKA, from the jurisdiction of this Hon'ble Court and to take the said minor to Italy or wherever they may reside in future.

21. The Judge's Order is also separately signed.

22. 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.

23. The Adoption Petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)