

Ladda RS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Radhakishan
S. Ladda

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ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO. 47 OF 2019

WITH

JUDGE'S ORDER NO. 139 OF 2019

Family Service Center,]
Eucharistic Congress Bldg]
No. 3, 5 Convent Street,]
Colaba Mumbai 400 001]
through:- its Authorized]
Signatory/Convenor Ms.]
Avanti More.] **Petitioner.**

Vs.

1) N.P. Siddaramappa,]
aged 47 years,]
]]
2) Prameela B.M.]
aged 41 years.]
]]
Residing at 354/44 Near]
Subramanya Temple,]
Industrial Area,]
Subramanya Nagar, Lokikere]
Road, Devangere] **Prospective**
Karnataka-577 005.] **Adoptive Parents.**

Mr. Rakesh Kapoor I/by M/s Rakesh K.L. Kapoor & Co.
for Petitioner.

Mr. O. Hareendran, Scrutiny Officer present.

CORAM : B. P. COLABAWALLA, J.
DATED :- 1st August, 2019.

P.C. :-

1. This Adoption Petition is for the adoption of a male minor **NIKHIL** born on 27th October, 2018 by Indian Nationals (hereinafter referred to as “the proposed Adopters”). The said minor Nikhil was admitted to the petitioner Institution on 31st October, 2018 as per the order of the Child Welfare Committee, Mumbai dated 31st October, 2018 under Section 36 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the Juvenile Justice Act”) read with Rule 18 (4) of the Model Juvenile Justice Rules, 2016. The biological mother of the said Nikhil also executed a Deed of Surrender before the Child Welfare Committee on 31st October, 2018 for the child's rehabilitation. The representation of Indian Council of Social Welfare (ICSW) is tendered before me and taken on record and marked “**X**” for identification.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, the Child Welfare Committee, Mumbai City II declared the proposed minor Nikhil legally free for adoption as on 2nd January, 2019. The free for adoption certificate is on record at page No. 17.

3. The prospective Adopters are residing at Devangere (Karnataka) and are aged about 47 and 41 years respectively. They have been married for the last 13 years (7th May, 2006) with no biological children. The Family Photograph is also on record. The Motivation Letter from the proposed Adopters is also on record which states that they do not have any issue due to medical reasons. The motivation letter of the proposed Adopters is also on record at page No. 28.

4. The decision of the Adoption Committee dated 17th June, 2019 is on record (page Nos. 13 to 16) which states that the proposed Adopters are suitable to adopt Nikhil. Affidavit of the Chief Functionary of the Specialized Adoption Agency (petitioner) is also on record at page Nos. 92 to 94.

5. The Health Report of the prospective adoptive parents dated 20th May, 2019 is on record. It states that the adoptive parents are fit to adopt the child without any communicable diseases. Their HIV I & II and Hepatitis “B” test reports certify the case as Negative. The said test reports are at Page Nos. 25 to 27.

6. The prospective adoptive father is self-employed (Sub-

contractor) and his income for the Assessment Year 2018-19 is Rs.3,46,932/-. His Income-tax Returns for the Assessment Years 2016-17, 2017-18 and 2018-19 are also on record at page Nos. 35 to 47. The prospective adoptive mother is a homemaker. In support of the above, the copy of PAN card, Aadhar Card/Proof of residence, bank statements and other supportive financial documents are also annexed to the petition at page Nos. 23, 29, 30 and 48 to 54 respectively.

7. The home study report Part I, Self Assessment by the prospective adoptive parents is on record at page Nos.55 to 61 of the petition. The Assessment Report of the Social Worker of Specialized Adoption Agency-Amulya (G), Devangere, Karnataka (Home visit done on 18th April, 2017) states that the prospective adoptive parents are emotionally equipped enough to take care of a child. They are financially sound to welcome another member into their family. After all assessment, the Social Worker recommended that the couple be considered for the adoption of a child as per their desire. This report can be found at page Nos. 62 to 64 of the paper book.

8. A child security undertaking dated 20th May, 2019 has

also been given by the cousin brother and sister-in-law of the prospective adoptive father residing at Chitradurga District (Karnataka) to look after the proposed minor Nikhil in case of any mishap to the prospective adoptive parents. This security undertaking can be found at page Nos. 74 and 75 respectively.

9. The medical examination of the proposed minor Nikhil dated 15th January, 2019 is on record and it states that he is a normal child. The proposed Adopters have countersigned the said report (pages Nos. 82 to 89). The HIV report of the proposed minor is tendered before me by the learned Advocate appearing for the petitioner which states that the case is non-reactive. The same is taken on record and marked “**X-1**” for identification.

10. The post card size photograph of the minor is on record at page No. 91. The joint consent and undertaking by the prospective adoptive parents are also on record at page Nos. 31 and 32 respectively.

11. As regards the change of name, the proposed Adopters desire that the minor **NIKHIL** be renamed as “**VIDWATH S.**”. It is accordingly so ordered.

12. The pre-adoption foster care undertaking dated 10th June, 2019 is on record. The undertaking dated 8th June, 2019 to send follow up reports by the Specialized Adoption Agency-Amulya (G) Devangere, Karnataka is also at page No. 97 of the paper book.

13. The petitioner Institution's recognition from the Women & Child Development, Government of Maharashtra to place children in adoption is valid for a period upto 31st July, 2019. However, the petitioner institution has applied for renewal and in the interregnum have filed this adoption petition under the provisions of Regulation 24 (5) of the Adoption Regulations, 2017.

14. The adoptive parents are not present before me. However, they have given instructions to the Advocate appearing for the petitioner that they will create a Fixed Deposit in the sum of Rs. One Lakh (Rupees One Lakh) in the name of the minor until he attains majority. The said undertaking is also accepted.

15. Looking to all the aforesaid documents that have been placed before me and considering all the material on record, I think it would be in the interest of the child if he is adopted by the

prospective Adopters. I therefore find no impediment in granting the reliefs sought in the petition.

16. In view of the aforesaid discussion, the Petition is allowed in terms of prayer clauses (a) to (d) which read thus :-

- (a) That the Prospective Adoptive Parents be given the said child in adoption be declared as parents and have all parental legal rights, privileges and responsibilities over the said minor **VIDWATH S**;
- (b) That the Prospective Adoptive Parents may be granted leave to remove the said minor from the Jurisdiction of this Hon'ble Court and to take the said minor out of the Jurisdiction of this Hon'ble Court, whenever required;
- (c) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor **VIDWATH S**. born on **27.10.2018** and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor; and

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from **NIKHIL** to **VIDWATH S.** born on **27.10.2018.**

17. The Judge's order is also separately signed.

18. 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.

19. The Adoption Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)