

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

**FOREIGN ADOPTION PETITION No. 28 of 2019
WITH
JUDGE'S ORDER No. 141 of 2019
IN
FOREIGN ADOPTION PETITION No. 28 of 2019.**

- 1) Family Service Centre,]
Eucharistic Congress Building]
No. III, 5, Convent Street.]Petitioner.

And

- 1) Rajesh Shivaji, Canadian National,]
aged 45 years, residing at 324]
Old Chicopee Trail, Kitchener,]
Ontario, N2A 4C8, CANADA.]
- 2) Yamini Rajesh, Canadian Nationality]
aged 45 years, wife of Mr. Rajesh]
Shivaji, residing at the above]
said address.]Proposed
]Adopters.

—
Mr. Rakesh Kapoor, 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 male minor “**RAHIL**” born on 12th September, 2018 by Canadian Nationals of Indian Origins residing at Ontario, Canada. The biological mother of the minor relinquished her child before the Child Welfare Committee, Mumbai II on 19th September, 2018 and the custody of the minor was given to the petitioner Institution by the said Committee vide its order of the same date under Section 36 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 read with Rule 18 (4) of the Model Juvenile Justice Rules, 2016. The admission order is at page No. 14 of the petition. The representation of Indian Council of Social Welfare (ICSW) is also tendered before me and taken on record and marked “**X**” for identification. The learned Advocate for the petitioner has also tendered a compilation of certain documents and which compilation is taken on record and collectively marked as “**X-1**”.

2. After making due enquiry under Section 38 of the Juvenile Justice Act, 2015, the Child Welfare Committee, Mumbai II has declared that the proposed minor “**RAHIL**” is legally free for adoption as on 22nd November, 2018. A Certificate declaring the child free for adoption is also on the record of this Court. Even the

undertaking / affidavit by the petitioner is on record at page Nos. 16 to 20.

3. The Central Adoption Resource Authority (CARA), New Delhi has also given its No Objection Certificate dated 21st May, 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 21 of the paper book.

4. The proposed Adopters are Canadian Nationals of Indian Origin residing at Ontario, Canada. Both are about 45 years old. They have no biological children. They have been married for the past 19 years (24th April, 2000). The proposed Adopters Family photo and Passport copy are on record.

5. The Health Report of the proposed 1st Adopter is dated 26th October, 2018 and states that “No health concern, fit for adoption”. The said health report of the 1st Adopter is at page Nos. 33 to 37. The health report of the 2nd proposed Adopter is on record and it states “she is suffering from depression, prognosis is good on medications. She will be a good parent”. Their HIV 1 & 2 Antibodies

and Hbs Ag test reports certify the case as Non-reactive. The said Test Reports are tendered before me and form a part of Serial Nos.1 & 2 of the compilation marked as “X-1”.

6. As far as the financial condition of the proposed Adopters are concerned, the prospective adoptive father is working as a Millwright in the Maintenance Department with Paper Works Packaging Group, Kitchener, Canada since March 30, 2016 and his current rate of pay is \$34.65 hour. His gross annual income is \$75,675.60 exclusive of overtime, shift premium and bonus. His income and employment certificate dated 2nd April, 2019 is on record at page No.47. The prospective adoptive mother is working as a Medical Secretary (part time) with Dr. Sandhya Gokhale, CCFP, Ontario, Canada since 2014 and her hourly pay rate is \$15 per hour and she works 16 hours per week. Her gross annual income is \$ 12,480.00. Her income and employment certificate dated 2nd July, 2019 is tendered before me and forms part of the compilation marked as “X-1” at Sr.No.3. The proposed Adopters notice of assessment from Canada Revenue Agency for the tax year 2017 is on record at page Nos. 50 to 53. Bank reference and Proof of Residence/Property are also on record at page Nos. 49 and 54 respectively.

7. The Childcare Arrangements Plan declaration from the prospective adoptive mother is tendered before me and form a part of the compilation marked as “**X-1**” at Sr.No.4.

8. The home study reports dated 19/03/2014 and 17/11/2016 and 14/12/2018 of the proposed Adopters conducted by Approved Private Adoption Practitioner Mary Howlett Nero, MSW, RSW, Canada is on record and it states, that the Prospective Adoptive Parents are kind, nurturing and gentle-natured couple. They have a stable marriage and good communication patterns. They have financial stability and a safe and stable home environment and also have some experience around children and have reasonable ideas about parenting and discipline. Their references were very positive about this couple’s interactions with children and highly recommended them for adoption. Rajesh and Yamini appear to be good candidates for adoption. Based upon the assessment, the assessor recommended that the Prospective Adoptive Parents be approved to adopt through inter-country adoption, a child of either sex, healthy or with minor medical/developmental conditions, as young as possible and up to 24

months old at the time of the proposal from India. The said Home Study report is also at page Nos. 57 to 87 of the paper book.

9. The Psychological Assessment Reports dated 23/02/2018 and 04/06/2019 of the proposed Adopters are on record and it states, that the results of the clinical interview and psychometric testing indicate that the couple is in good psychological health. They are an emotionally stable, patient, and a caring couple. They have good stress management skills. The updated report of the prospective adoptive mother states that there are no concerns at all, about her psychological functioning. The said psychological Assessment Report is also at page Nos. 43 and 44 of the paper book. The updated report of the prospective adoptive mother is also tendered before me and which forms a part of the compilation marked as “X-1” at Sr.No.5. The updated report states that there are no concerns about the psychological functioning of the prospective adoptive mother.

10. The letter of approval dated 31/01/2019 by Ministry of Children and Youth Services and Article 17 Letter dated 02/05/2019 by Ministry of Children, Community and Social Services, Ontario,

Canada are also on record at page Nos. 88 to 92.

11. The Medical Examination report of minor RAHIL dated 30/11/2018 is on record and it states that motor development of the minor is appropriate for the age. He is a normal active child. The Proposed Adopters have countersigned this Report which is at page Nos. 106 to 113 of the paper book.

12. The H.I.V. report of the proposed minor dated 01/12/2018 certifies the case as Non-reactive. The said H.I.V. report of the proposed minor is on record at page No.122. The Post Card size photograph of the minor is on record at page No. 123.

13. As regards change of name, the proposed Adopters desire that minor 'RAHIL' be renamed as "Shiva Sakthi Rajesh". It is accordingly so ordered.

14. The consent, willingness, and undertakings by the proposed Adopters are also on record at page Nos. 126 to 129.

15. The undertaking dated 07/05/2019 from the Authorized Foreign Adoption Agency (AFFA) "Cornerstone Adoption Agency",

Ontario, Canada to provide progress reports of the child 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 Nos. 130.

16. The Special Power of Attorney duly signed by the proposed Adopters in favour of the Petitioner institution is on record at Page Nos. 132 and 133 respectively.

17. The Petitioner institution's (Family Service Centre, Mumbai) recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period from 1.8.2014 to 31.7.2019. 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.

18. 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 he is adopted by the proposed Adopters. I, therefore, do not find any impediment in granting the reliefs sought for in the Petition.

19. 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 male minor Shiva Sakthi Rajesh born on the 12.09.2018 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 Shiva Sakthi Rajesh now in the care and custody of Family Service Centre, Eucharistic Congress Building No.III, 5, Convent Street, Mumbai - 400 001;
- (c) That the proposed adopters be allowed to change the name of the minor RAHIL to Shiva Sakthi Rajesh;
- (d) Leave / permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Shiva Sakthi Rajesh; and
- (e) That the Proposed Adopters may be granted leave to remove the said minor Shiva Sakthi Rajesh from the jurisdiction of this Hon'ble Court and to take the said minor to CANADA or wherever they may reside in future.

20. The Judges order is also separately signed.

21. It is directed that the petitioner Institution shall obtain a

further undertaking from the adoptive parents that they shall not give 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.

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

(B.P. COLABAWALLA, J.)