

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

And

In its General and Inherent Jurisdiction

FOREIGN ADOPTION PETITION NO. 34 OF 2019

1.Children of the World India Trust ...Petitioner

And

1. Daniel Charles Dailey

2. Anne Marie Dailey ... Prospective Adopters

...

Mr.Rakesh Kapoor for the Petitioner.

Mr.O.Harendran, Scrutiny Officer of ICSW present.

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CORAM : G.S. KULKARNI, J.

DATE : 8th November, 2019

P.C.:

1. The petitioner-Children of the World India Trust, is before the Court in the present Foreign Adoption Petition whereby minor girl child OVI born on 16 December 2014 who currently in the custody of the petitioner, is sought to be adopted by the proposed adopters Mr.Daniel Charles Dailey and Mrs.Anne Marie Dailey, and who are American nationals, residents of 3235, Joyce Street, Lebanon, PA 17046, U.S.A.

2. By an order dated 22 December 2014 of the Child Welfare Committee (CWC), Thane, passed under Section 33(4) of the Juvenile

Justice (Care and Protection of the Children) Act,2000 (for short '**the Juvenile Justice Act**'), the custody of the minor child was handed over to Vishwabalak Kendra, Nerul, Navi Mumbai. The Child Welfare Committee also issued a certificate declaring the child legally free for adoption on 24 April 2015 as per the provisions of the Juvenile Justice Act. There is a further certificate dated 10 July 2019 issued under Section 38 of the Juvenile Justice Act, on the basis of the report of the Social Worker, News paper publications dated 2 February 2015 and 14 February 2015 respectively. In pursuance of these notices, none came forward making any claim over the child OVI.

3. The Child Adoption Resource Authority, New Delhi (CARA) which is the Central Authority in India on adoption, functioning under the Ministry of Women and Child Development of the Government of India has no objection for minor OVI being adopted by the prospective adoptive parents.

4. I have perused the record which contains the documents setting out complete details of the adoptive parents. The adoptive parents were married on 19 July 2008 and have three biological children, two sons aged about seven and half years and five years and a daughter aged about 6 years. The family of Mr.Daniel Dailey and Mrs.Anne Dailey is in

good health. Mrs. Anne is presently a home maker and has expressed her willingness to work, if necessary.

5. I have also perused the financial statements of Mr. Daniel as annexed to the petition and the declaration made by Mr. Daniel that he would be in an appropriate financial position to take care of the interest of the family including of the child being taken in adoption. The American Authorities namely America World Adoption, Pennsylvania, U.S.A. filed a report which is a detailed report of the family of Mr. Daniel which positively records that the adoptive parents would be able to take care of the child, as set out in the said report. The report also speaks about the financial capabilities recording that the family has a health insurance. Both the adoptive parents have never filed for bankruptcy. The report states that they live within their means and manage their money well and are financially able to assume responsibility of an adopted child. The report also indicates that there are five references and who also agreed that that the adoptive parents are mature, stable and committed couple and who love children and are wonderful parents. The report states that they are actively parenting three young children as also their children are eager to have the adoptive sister. A parenting plan has also been set out. Appropriate clearances are also obtained from the local authorities. All necessary documents are

collected by the Agency of the Adoptive Parents, details of which are set out.

6. The adoptive parents are also aware about the medical condition of the child Ovi being taken in adoption. The America World Adoption Association has approved the adoptive parents to adopt one female child who is healthy or with special needs from India about 2 to 5 years of age at the time of referral. The agency and the adoptive parents has agreed for the post-placement visits, with reports submitted to CARA, at 3, 6, 9, 12, 18 and 24 months post adoption as required by Indian Rules. The adoptive parents have also agreed to provide a one month self evaluation to America World Adoption Association. The adoptive parents are also aware that CARA being the authority overseeing adoptions in India would require quarterly self-reports upon returning home, and the other necessary requirement of the Court including additional post adoption report and the annual reports and that the adoptive parents would be required to complete all post adoption reporting as may be called for by CARA.

7. The adoptive parents have also requested this Court to change the name of the minor child from OVI to Eve Sherry Dailey and for which the petitioner has no objection.

8. There are also medical reports on record, of the minor child with negative report on HIV. The approval / acceptance letter, name change statement, postcard size photographs, undertakings of perspective adoptive parents, undertakings by adoptive agency and a copy of the general power of attorney as placed on record. The minor owns no property in India.

9. I have also perused the report of Weigel Counseling Associates in regard to the certificate of mental health psychological evaluation of the adoptive parents, which records that both the adoptive parents presents no psychological symptoms which would impair their ability to parent and that both are well educated and socially conforming individuals who have a strong, stable support system. It is recorded that they have a secure marriage with strong moral values and are stated to be well prepared to raise an adopted child in a positive, loving home. I have also perused the undertaking as made by the adoptive parents regarding medical needs of the child (page 157 of the paperbook), and the undertaking by the adoption agency namely America World Adoption and a general power of attorney dated 21 July 2019 as made in that regard.

10. Having heard the learned Counsel for the petitioner and having perused the record to which some reference has been made above, as also having perused the report of Mr.O.Hareendran, Scrutiny officer from the Institute of Child and Social Welfare dated 9 October 2019 which is marked at "X", in my opinion considering the paramount interest and welfare of the minor child OVI and the intention, desire and the spirit of the adoptive parents, to have in adoption a girl child like OVI from India, the petition is required to be allowed. Needless to observe that it would be required to be allowed accepting the undertakings as made by the adoptive parents as placed on record as also the undertakings which are furnished by the American Agency namely the America World Adoption. The American Agency shall for a period of five years send half yearly reports in regard child Ovi to CARA.

11. In the circumstances, I do not find any impediment in granting the reliefs as prayed for. Hence, the following order:-

ORDER

- I. The Foreign Adoption Petition is allowed in the following terms:
 - (a) The proposed adopters Mr.Daniel Charles Dailey and Mrs.Anne Marie Dailey having their address at 3235 Joyce Street, Lebanon, PA 17046, U.S.A., are permitted to adopt female minor **OVI**.
 - (b) It is declared that the adoptive parents Mr.Daniel Charles Dailey

and Mrs. Anne Marie Dailey shall have all the parental rights, privileges and responsibilities over the child **OVI**, now in the care and custody of petitioner-Children of the World India Trust.

(c) The proposed adopters are allowed to change the name of “**OVI**” to “**Eve Sherry Dailey**”.

(d) Permission is granted to apply to the concerned Municipal Authorities for issuance of Birth Certificate in the name of minor **Eve Sherry Dailey**.

(e) The proposed adopter is granted leave to remove minor **OVI** alias **Eve Sherry Dailey** from the jurisdiction of this Court and take minor **OVI** alias **Eve Sherry Dailey** to America.

(II) The Judge’s order is separately signed.

(III) The adoptive parents shall also through concerned American authorities forward to the petitioner the half yearly progress and development reports of the minor for a period of five years from today, to be placed for consideration of the Central Adoption Resource Authority (CARA), New Delhi.

(IV) The foreign adoption petition is disposed of in the above terms.

Parties be furnished authenticated copy of this order.

[G.S. KULKARNI, J.]