

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

And

In its General and Inherent Jurisdiction

FOREIGN ADOPTION PETITION NO. 38 OF 2019

with

JUDGE'S ORDER NO.196 OF 2019

MSWC, ASHA SADAN

...Petitioner

And

1. Kyle Edward Wedin & Anr.

...Proposed Adopters

Smt.Lalita Jaya Raj, for the Petitioner.

Mr.Surve h/f. Mr.O.Harendran, Scrutiny Officer of ICSW present.

**CORAM : G.S. KULKARNI, J.
(IN CHAMBER)****DATE : 15th November, 2019****P.C.:**

1. This is a Foreign Adoption Petition filed by petitioner-M.S.W.C, Asha Sadan, a registered Child Welfare Organization and a recognized agency for adoption by the Maharashtra State Government as also by the Central Adoption Resource Authority (CARA). The petitioner is before the Court alongwith the proposed adopters Mr.Kyle Edward Wedin and Mrs.Pooja Deep Rashmi Paranjpe wife of Kyle Edward Wedin, both of whom are American Nationals presently residing at 6002, Martel Avenue, Dallas Texas, 75206, U.S.A. The petitioner prays that male minor Vivan @ Nikhil born on 18 November 2017 presently under the care and custody of the petitioner, be given in adoption to the prospective adoptive parents.

2. By an order dated 18 December 2017 of the Child Welfare

Committee (CWC), Mumbai, passed under Section 36(1) of the Juvenile Justice (Care and Protection of the Children) Act, 2000 (for short '**the Juvenile Justice Act**') read with Rule 18(4) of the Model Juvenile Justice Rules, 2016 the custody of the minor child was handed over to the petitioner institution. On 13 August 2018, after making due inquiry under Section 38 of the Juvenile Justice Act, the Child Welfare Committee issued a certificate declaring the child legally free for adoption. The affidavit of the authorized representative of the petitioner in support of the adoption of the child is on record.

3. The Central Adoption Resource Authority, New Delhi (CARA) functioning under the Ministry of Women and Child Development of the Government of India has also granted its no objection dated 31 March 2019 to this adoption as per Adoption regulations 2017 and Article 17(c) of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-Country Adoption 1993.

4. I have perused the record which contains the documents setting out complete details of the adoptive parents. Perusal of the record shows that the proposed adopters are American Nationals who were married on 15 November 2014 with no biological children. The copies of passport, OCI Card and joint photograph of the proposed adopters are on record. The health report dated 30 August 2018 of the proposed adopters is also on record and does not disqualify the adoptive parents in parenting a child in anyway. Their HIV and Hepatitis B test reports certify them to be negative. The adoptive father is a Physician working with Kyle Wedin, M.D. PLLC for the last three years. His annual income is stated to be US \$ 300,000 to 340,000 as seen from his employment/salary certificate. The adoptive mother is also working as a

physician with Allergy, Asthama, Immunology Associates since 2011 and her annual salary is US \$ 160,000/- plus additional dividends from the practice. Her employment/salary certificate is on record. The income tax returns of both the adoptive parents are on record. As also proof of residence, declaration of financial status and bank references are on record.

5. As regards the care of the minor on adoption, the childcare arrangement plan proposed by the prospective adoptive parents is placed on record. Also home study report dated 21 December 2017 of the United States agency namely "International Family Services, Texas, U.S.A." is on record, which certifies that the proposed adopters are a loving, responsible couple, who deeply want to become parents of an adopted child. It is stated that they are financially and emotionally stable and are able to provide a safe and nurturing environment for children and qualified to become adoptive parents with additional training to help in understanding adoption issues. Both of them are approved to adopt an internationally born, healthy male/female child from India upto the age of five years and/or to adopt a child with minor and/or correctable conditions. The psychological evaluation report of the proposed adopters dated 29 March 2019 by the Clinical Psychologist is also placed on record stating that both are mentally and emotionally stable to take care of the adopted child.

6. The Office of the Children's Issues, U.S.Department of State under the Embassy of the United States of America, Washington, D.C. has issued "Article 5" letter addressed to the Central Adopting Resource Agency, New Delhi, certifying that the adoptive parents are eligible and suited to adopt the minor child Vivan. There is also a Child Scrutiny

Undertaking dated 29 May 2019 from the brother and sister-in-law of the proposed adoptive mother, who are also residents of Texas, USA indicating that they would take care of the child in case of any unforeseen mishap to the proposed adopters.

7. As regards the minors, medical examination report dated 22 January 2019 states that the child was born to HIV positive mother. Child-Vivan is a case of Congenital Heart Disease (TOF) and he has undergone pulmonary valvotomy and the VSD will have to be evaluated regularly. It is stated that he is a Special needs child. The proposed adopters have also countersigned the said report. Further the HIV report of the proposed minor dated 17 May 2019 certifies the case as non-reactive. A letter of acceptance dated 30 March 2019 for Special Needs Child from the proposed adopters is also placed on record. As also post card size photograph of the minor is placed on record.

8. The proposed adopters desire that the minor Vivan be renamed as Nikhil Edward Wedin.

9. There is also a declaration of consent and undertaking of the proposed adopters, stating that they are willing to adopt minor child Vivan with a further undertaking that they shall send post placement reports of the said child, together with recent photographs. There is also an undertaking dated 2 May 2019 of the Authorized Foreign Adoption Agency (AFAA) "International Adoption Net" USA to provide follow-up report of the child and make alternative arrangement in case of disruption of the adoptive family. There is also a general Power of Attorney dated 30 March 2019 in favour of the authorized functionary of the Petitioner institution.

10. Having heard the learned Counsel for the petitioner and having perused the record to which a 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 11 November 2019 which is marked "X" for identification, in my opinion considering the paramount interest and welfare of the minor child Vivan and the intention, desire and the spirit of the adoptive parents, to have in adoption a minor child like Vivan from India, the petition is required to be allowed. 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 Authorized Foreign Adoption Agency (AFFA). The American Agency shall for a period of five years send half yearly reports in regard child Vivan 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 terms of prayer clauses (a), (b) and (c) which reads thus:

(a) This Hon'ble Court may be pleased to appoint the Adopters as adoptive parents of the person of male minor VIVAN now in the care and custody of the Petitioners: MSWC Asha Sadan, Asha Sadan Marg, Umerkhadi, Mumbai-400009.

(b) That the Adopters be granted leave by this Hon'ble Court to remove VIVAN outside the jurisdiction of this

Hob'ble Court; and

(c) That the Petitioners/Adopters be granted leave to apply to the Municipal authorities to issue Birth Certificate of the minor VIVAN showing the first adopter KYLE EDWARD WEDIN as the adoptive father and his wife the second adopter Mrs.POOJA DEEP RASHMI PARANJPE as the adoptive mother respectively.”

(II) 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.

12. Parties be furnished authenticated certified copy of this order expeditiously.

[G.S. KULKARNI, J.]