

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

And

In its General and Inherent Jurisdiction

FOREIGN ADOPTION PETITION NO. 39 OF 2019

with

Judge's Order No.202 of 2019

MSWC, ASHA SADAN

...Petitioner

And

1.Roberto Cescon

2.Serena Angela Cellot.

...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****PC.:**

1. The petitioner-Maharashtra State Women's Council-Asha Sadan which is a Child Welfare Organization, a recognized agency for adoption, by the Maharashtra State Government as also by the Central Adoption Resource Authority (CARA), is before the Court alongwith the proposed adopters Mr.Roberto Cescon, aged about 52 years and Mrs.Serena Angela Cellot wife of Roberto Cescon, aged about 48 years both Italian Nationals presently residing at Via Cadorna, 49-31028 Tezze Di, Vassola (TV), Italy, praying that the male minor Chotu @ Chotu Davide Cescon born on 16 October 2012 who is presently under the safe custody of the petitioner, be given in adoption to the prospective adoptive parents.

2. By an order dated 24 July 2017 of the Child Welfare Committee (CWC), Mumbai, passed under Section 36(1) of the Juvenile Justice (Care and Protection of the Children) Act, 2015 (for short '**the Juvenile Justice Act**') and Rule 18(4) of the Model Juvenile Justice Rules, 2016, the custody of the minor child was handed over to the petitioner institution under Memo no.1090/17. 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 on 23 July 2018 and his details were uploaded on the CARA website. The affidavit of the authorized representative of the petitioner in support of the adoption of the child is on record. The adopters have chosen Chotu to be their adoptive son after looking at the photograph of the minor child and examining OnLine the child study and health report and decided to change the name of the minor as Chotu Davide Cescon.

3. The adopters are Italian nationals and are sponsored as suitable adoptive parents by the recognized Italian Agency "Associazione 'Bambini Dell' Arcobaleno Bambarco Onlus". The Central 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 also granted its no objection dated 29 May 2019 to this adoption, as per Adoption regulations 2017 read with 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 being Italian Nationals were married

on 18 October 2003 that is for last about sixteen years, with no biological children. Copies of passport and joint photograph of the proposed adopters are on record. The health report dated 30 May 2019 of the proposed adopters is also on record to state that their health condition is conducive and would not disqualify the adoptive parents in parenting a child in anyway. Their declaration of desire to adopt the minor child, their approval and acceptance of special needs of the child, choice of name, marriage birth, residence, citizenship details, police certificate and passport pages with qualification certificate are placed on record. Their HIV and Hepatitis B test report of the adoptive parents are certified to be negative.

5. The adoptive father is working as a Technical Employee with CLM S.R.L. Mechanical Constructions and Processing since 2 January 1985 and his annual income for the year 2018 was of Euro 33,947.32. His employment/salary certificate and pay slips are on record. His wife the adoptive mother is an Architect employed with the Municipality of Santa Lucia and earning Euros 29,027/- per year. The details *inter alia* of salary, employment letters, also three months pay details, revenue authority declarations, Income and Expenditure and Bank Certificate are placed on record. Their friends and well-wishers have recommended the adoptive parents as being suitable adoptive parents. The child care letter and declaration of security and reference letters from Marico Pillon and Ugo Enrico Sterlecci and Meneghin Giovanni and Chizio Cecilia and Ziraldo Laura are also placed on record.

6. So also the home study of the adopters has been carried out by the said Italian Adoption Agency “Associazione ‘Bambini Dell’ Arcobalena Bambarco Onlus” which also recommends the adopters as suitable adoptive parents. Photographs of the adoptive parents and

minor Chotu (page 137) are placed on record. The Juvenile Court of Venice had issued a suitability Decree and its modifications in favour of the adopters for international adoption. This document is placed on record at 'Exhibit I'. There is also a declaration on oath by the adoptive parents of their willingness for adoption and undertaking as required by the Court to take the said minor Chotu in adoption. There is also an undertaking of the Italian Agency to send follow up reports as may be required by the Court.

7. As regards the medical reports of the adopters, the adopters are declared medically fit to be adoptive parents. Their health reports and blood reports are placed on record at 'Exhibit K' indicating nothing adverse. Further the countersigned child study, medical and I.Q. reports of the said minor Chotu, expenditure statement and CWC free for adoption order are placed on record. The adoptive parents have stated that they would confer on the minor, parental love and affection in the same manner as a natural child of their own. They state that they have sufficient means to provide an honourable and comfortable life to the said minor.

8. As regards the minor to be given in adoption, 'Exhibit L' is the child study report indicating the date of birth of minor as 16 October 2012 and his present age being 7 years. He is described to be smart and healthy child. He is friendly and caring in his attitude towards other children. He is also good in singing. He is a healthy child with normal mental development as per his age. HIV tests are in the negative. He has a squint in his left eye and would require treatment, which cannot be said to be any health issue.

9. 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 11 November 2019, which is marked at "X", in my opinion considering the paramount interest and welfare of the minor child Chotu and the intention, desire and the spirit of the adoptive parents, to have in adoption a minor child like Chotu from India, the petition is required to be allowed. It is allowed accepting the undertakings as made by the adoptive parents as placed on record as also the undertakings which are furnished by the Italian Agency. The Italian Agency shall for a period of three years send half yearly reports in regard child Chotu to CARA.

10. 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 CHOTU, now in the care and custody of the Petitioners: Asha Sadan, Umerkhadi, Mumbai-400009.

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

(c) That the Adopters be granted leave to apply to the Municipal authorities to issue a Birth Certificate of the male minor CHOTU showing the first adopter ROBERTO CESCONE as the adoptive father and

his wife SERENA ANGELA CELLOT as the adoptive mother respectively.”

(II) Judge’s order is separately signed.

(III) The adoptive parents through the concerned Italian Authority shall forward to the petitioner, half yearly progress and development reports of the minor for a period of three 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.]