

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

FOREIGN ADOPTION NO. 43 OF 2019

Bal Asha TrushPetitioner

V/s.

Olivier Gael Bourges and Anr.Proposed
Adopters

Mr. Rakesh K.L.Kapoor, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer.

CORAM : G.S. KULKARNI, J.

DATE : 6th DECEMBER, 2019

P. C.

This is a foreign adoption petition wherein Bal Asha Trush, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai-400011, the petitioner alongwith the co-petitioner Mr. Olivier Gael Bourges and his wife Mrs. Laetitia Catera Bourges, both of whom are French nationals having their address at 34, Avenue du Marechal Joffre 78400 Chatou, France, are before the court praying that male minor Hasan born on 24th July 2011 to be granted in adoption to the proposed adopters.

2. The petitioner Bal Asha Trush is stated to be a recognised as a Child Welfare Organization recognized by the State Government as also by the Central Adoption Resource Authority (CARA, New Delhi).

On 22nd April 2016, minor Hasan who was found abandoned was admitted at the New Observation Home at Mankhurd. Thereafter, on 20th July 2018 he was admitted in the petitioner's institution by the orders passed by the Child Welfare Committee. Thereafter orders dated 20th July 2018 were passed under Section 36(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'Juvenile Justice Act') readwith the rules.

3. The Child Welfare Committee has issued certificate dated 7th December 2018 and 26th April 2019 stating that despite best efforts taken, the details of which are set out in paragraph-4 of the petition, the biological parents of the child could not be traced and his home could not be located. The final report dated 16th October 2018 to that effect was submitted to the Child Welfare Committee. Also the District Woman and Child Development, Mumbai has submitted its report to this effect, with the Child Welfare Committee on 14th November 2018. As none came forward to claim the child, the child was declared free for adoption by order dated 26th November 2018 passed by the Child Welfare Committee. The CARA has also issued a no objection certificate dated 2nd August 2019 to the adoption of the minor Hasan by the proposed adopters as per Schedule X [Regulation 16(1)] of the Adoption Regulations 2017 read with Article 17(c) of the Hague

Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption 1993.

4. So far as the proposed adopters are concerned, they are French nationals, aged about 48 and 50 respectively and are married for past 5 years (date of marriage is 14th June 2014) with no biological children. The petition states that medically the proposed adopters are in a good health and capable to take care of minor as their own child. Copies of the photographs of the proposed adopters along with passport copies, birth and marriage proof and health report of adoptive parents are placed on record. The adoptive father Mr. Olivier Gael Bourges is a Physician working in a Pharmaceutical company as a medical head and as stated in the petition his monthly (July-2019) gross salary is Euros 9173.44. The proposed adoptive mother is working as a health assistant with Assistance Publique Hopitaux De Paris and her monthly (July-2019) gross salary is stated to be Euros 2464.68. The income and employment certificate, tax returns, proof of property respectively are placed on record.

5. As per the adoption regulation 2017, the Self Assessment report Part-I and Part-II are placed on record by adoptive parents. Part-II assessment report is made by a social worker of the authorised foreign adoptive agency who has also recommended the proposed adopters

are suitable adoptive parents and are capable to take care of minor Hasan as their own child.

6. The petitioners have placed on record certificates issued by other persons certifying that proposed adopters have good fitness, a sound financial position and good morals to adopt a minor as their own child. Copies of the Home Study Report including a recent home study report dated 2nd December 2019 (marked 'X' for identification), Psychological test reports, approvals from various concerned authorised authorities, police certificates as also undertaking for child security from the relatives of the proposed adopters are placed on record.

7. As regards minor Hasan, he was chosen by the proposed adopters after looking at his photographs and after having gone through the detailed child study report and medical reports. The proposed adopters after getting fully acquainted and having fully accepted in regard to all these details of the minor have decided to adopt the minor as their own child, who is a healthy child. They also intend to change the name of the minor Hasan @ Husen Mumtyaz to Noe Joseph Alessandro Hasan Bourges. Copies of the child study report, medical examination report, IQ report, HIV report of the minor, photographs of the minor, concerned willingness and undertaking of

the adoptive parents and undertaking of the concerned agencies are placed on record.

8. There is a representation of Mr. O. Hareenran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, (marked '**X-1**' for identification), who also setting out all the details in regard to the proposed adopters, does not indicate anything adverse, for this court, not to permit the adoption in question.

7. Having heard the learned Counsel for the petitioner and having perused the record to which 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 25th November 2019, in my opinion considering the paramount interest and welfare of the minor male child Hasan and the intention, desire and the spirit of the adoptive parents, to have in adoption a minor child like Hasan 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 Authorised Foreign Adoption Agency "Confederation Francaise Pour L 'Adoption', France. The agency shall for a period of three years send half yearly reports in regard child 'Hasan' to CARA.

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

ORDER

1. The Foreign Adoption Petition is allowed in terms of prayer clauses(a),(b), (c) and (d) which reads thus:-

(a) For the Adoption of the Proposed male minor Noe Hoseph Alessandro Hasan Bourges, born on the 24th day of July, 2011 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 Noe Joseph Alessandro Hasan Bourges now in the care and custody of Bal Asha Trush, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai-400 011.

(c) That the proposed adopters be allowed to change the name of the minor Hasan @ Husen Mumtyaz to Noe Joseph Alessandro Hasan Bourges.

(c) Leave/Permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Noe Joseph Alessandro Hasan Bourges.

(d) That the proposed Adopters may be granted leave to remove the said minor Noe Joseph Alessandro Hasan Bourges, from the jurisdiction of this Hon'ble Court and to take the said minor to France or wherever they may reside in future.

2. The Judge's order is separately signed.

3. The adoptive parents shall also through concerned French Authority forward to the petitioner the 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.

4. The foreign adoption petition is disposed of in the above terms.

5. Parties be furnished authenticated copy of this order.

[G.S. KULKARNI, J.]