

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

FOREIGN ADOPTION NO. 46 OF 2019

Vatsalya Trust	Petitioner
V/s.	
Mr. Michael Alan Saville and Anr.	Proposed Adopters

Ms. Sangeeta Nagpal, Advocate for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer.

CORAM : G.S. KULKARNI, J.
DATE : 18th DECEMBER, 2019

P. C.

This is a foreign adoption petition whereby the petitioner Vatsalya Trust, Kanjur Marg (East), Mumbai-400 042, which is a recognized agency for adoption by State Government as well as Central Adoption Resource Authority (CARA), New Delhi, alongwith the proposed adopters Mr. Michael Alan Saville and his wife Mrs. Whitney Saville, both of whom are American nationals having their address at 1365, Turtle Dove Lane Lawrenceville, GA 30043, USA are before the court praying that female minor Niharika born on 01 June 2017 be granted in adoption to the proposed adopters.

2. The biological mother relinquished minor Niharika before the Child Welfare Committee, Mumbai Suburban District on 05 June 2017

and accordingly safe custody of the minor was granted to the petitioner institution in pursuance of the order dated 05 June 2017 passed by the Child Welfare Committee under section 33 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'Juvenile Justice Act'). Thereafter an inquiry was undertaken under section 38 of the Juvenile Justice Act, pursuant to which the Child Welfare Committee, Mumbai Suburban declared minor Niharika legally free for adoption, as on 29 March 2019. A Certificate to that effect dated 29 March 2019 is placed on record.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued a "No Objection certificate" dated 26 June 2019 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, permitting adoption of the minor by the prospective adoptive parents.

4. As regards the prospective adoptive parents they are American Nationals, presently residing at Georgia, U.S.A. aged about 33 and 30 years respectively. They have been married for the past 10 years (date of marriage is 25 July 2019) with three biological sons aged about 7½ years, 6 years and 4 years respectively. Their birth certificates, health

reports, consent letters and evaluation of biological children are on record.

5. Motivation letter of the adoptive parents is placed on record (page- 204), wherein adoptive parents have declared that they have a strong desire to grow their family through adoption as they believe that every child deserves a loving home and family. They are specially drawn to India because they have a strong appreciation and love for the people of India. They feel educated and equipped to parent a special-needs child from India and believe that they can provide a stable and loving home for a child in need. They have also declared that they do not plan to have any more biological children.

6. The adoptive father Mr. Michael Alan Saville is working as a Director of Web Development with P & M Solution's since 15 June 2009 and his anticipated income for 2018 was US\$ 125,000. His employment/income certificate is on record. The prospective adoptive mother is a Co-Owner and Business Manager of Life Lived Beautifully (DBA Well-Watered Women) since 06 February 2015 and her anticipated income for 2018 was US\$60,000. The individual Income Tax Returns for the years 2017 and 2018 of the proposed adopters are placed on record, as also the bank statements and residence certificate of the proposed adopters are placed on record. A child care

arrangement letter of the proposed adopters is also satisfactory. The family photographs of the prospective adopters is also placed on record.

7. There is a home study report of the adoptive parents dated 13 August 2018 conducted by “Lifeline Children’s Services” USA which contain details of all interviews, home study history, family background information, details of the biological and children staying with family, financial position, description of home and neighbourhood, Child Desired and family’s consideration of possible special needs, anticipated plans for adopted child and rearing in the family, capacity/ability of parenting and expectations from the child, Psycho-social assessment of the adoptive parents, Psychological evaluation results, child abuse clearances, health status (emotional & physical), value system and overall analysis and evaluation. The home study recommends there is an approval to the adoptive parents to adopt internationally based on the recommendation including child with medical special-needs. It appears that adoptive parents are well-equipped, mentally, emotionally, financially and physically, as a couple and as a family, to take additional responsibilities of an internationally adopted child.

8. There is a letter dated 06 June 2019 from the Embassy of the United States of America, Office of Children's Issues, U.S. Department of State, Washington, D. C. titled as "Article 5" letter, in accordance with Article 5 of the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption (Convention) certifying that adoptive parents are suitable to adopt child minor Niharika and she will be authorized to enter and reside permanently in the United States following her adoption by the adoptive parents. It is accordingly certified that adoption by prospective adoptive parents be proceeded.

9. There is also a child security undertaking dated 11 April 2019 from the proposed adoptive mother's parents residing at Georgia, U.S.A. to look after the proposed minor in case of any unforeseen mishap to the proposed adopters.

10. In so far as the minor is concerned there is a medical examination report dated 30 November 2018 recording the health status of the minor stating the minor to be a child with special needs left club foot operated with thoracolumber kyphoscoliosis with left kidney dysfunction. It is recorded that there is a slight delay in mental development as mental milestones are slightly delayed. Overall observation is that her development is adequate. The proposed

adoptive parents have examined the medical reports of the minor and have countersigned these reports. They have also given a separate acceptance letter. The HIV test report of the minor Niharika dated 16 June 2017 certifies the case to be negative.

11. There is an undertaking by the proposed adoptive parents stating that they will allow the Social Worker into their home in order to carry out the post-adoption requirements. There is also an undertaking of the Authorized Foreign Adoption Agency (AFFA) “Lifeline Children’s Services” U.S.A. dated 21 May 2019 to provide post adoption progress report of the child for a period of two years and make alternative arrangement in the event of disruption in the adoptive family.

12. The adoptive parents have also power of attorney in favour of the institution and it’s advocate on record.

13. There is a representation of Mr. O. Hareendran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, (marked ‘X’ for identification), setting out all the details in regard to the proposed adopters. The representation does not indicate anything adverse, for this court, not to permit the adoption in question.

14. 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 26 November 2019, in my opinion considering the paramount interest and welfare of the minor female child Niharika and the intention, desire and the spirit of the adoptive parents, to have in adoption a minor child like Niharika 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 "Lifeline Children's Services", USA. The agency shall for a period of three years send half yearly reports in regard child 'Niharika' to Central Adoption Resource Authority (CARA), New Delhi.

15. 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) (d) and (e) which reads thus:-

(a) For the Adoption of the Proposed female minor Baby
NIHARIKA born on 1st June 2017 by the Proposed
Adopters under Juvenile Justice Act.

(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 NIHARIKA, now in care and custody of Vatsalya Trust, Mumbai

(c) That the Proposed Adopters be granted permission to change the name of minor NIHARIKA to GRACE CAROLYN NIHARIKA SAVILLE

(d) Leave/ permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor GRACE CAROLYN NIHARIKA SAVILLE

(e) That the proposed Adopters be granted leave to remove the said minor Baby NIHARIKA from the jurisdiction of this Hon'ble Court and to take the said minor to USA or whenever they may reside in future.

2. Judge's order is separately signed.
3. The adoptive parents shall also through concerned American Authority 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.
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.]