

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

FOREIGN ADOPTION PETITION NO. 4 OF 2020

Bal Asha Trust	Petitioner
AND	
Robert Dwayne House & Anr.	Proposed Adopters

Mr. Rakesh K.L.Kapoor, Advocate for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer.

CORAM : G.S. KULKARNI, J.
DATE : 28th FEBRUARY 2020

P. C.

This is a Foreign Adoption Petition whereby Bal Asha Trust, a Child Welfare Organization and a recognized agency for adoption by the State Government as also by the Central Adoption Resource Authority (CARA), New Delhi, is before the Court along with Mr. Robert Dwayne House, age 32 years and his wife Mrs. Tiffany Marie House, age 31 years, both of whom are citizens of the United States of America, being the proposed adopters, (for short “the adoptive parents”) praying that minor female child “Ashwini” born on 7 February 2013, be given in adoption to the proposed adopters.

2. Minor Ashwini was produced before the Child Welfare Committee, Ahmednagar on 21 February 2015 and was admitted in ‘District Probation and After Care Association’s’ children’s home named “Shishugrah Ahmednagar” on the same day. Minor Ashwini was thereafter transferred to the petitioner institution at Mumbai as per Child Welfare Committee’s order dated 26 August 2015 passed under Section 39(3) (F) of Juvenile Justice Act, 2000 (for short, “the Juvenile Justice Act”). Accordingly, with effect from 1 September 2015

the child is under the care of the petitioner institution. Thereafter, the Child Welfare Committee made inquiries under Section 38 of Juvenile Justice Act and by an order dated 19 November 2019 declared minor Ashwini “legally free for adoption”. A certificate to that effect is also placed on record. The Central Adoption Resource Authority (CARA) has issued NOC dated 19 November 2019 to the adoption of Ashwini by the adoptive parents as per the 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.

3. As noted above, the adoptive parents are U.S. Nationals residing at 140, Fowler Lane, Dunn, North, Carolina 28334, U.S.A. They are married for the past 11 years (Date of marriage 20 September 2008) with one biological daughter aged about 8 years. Her Birth Certificate, consent letter and medical certificate are placed on record. A family photograph of the adoptive parents along with their passport is also placed on record. The adoptive parents were motivated to have in adoption a girl child. Their motivation letter dated 1 July 2019 is also placed on record, which is a detailed letter in which the adoptive parents have expressed in so many words their sentiments and about their desire to adopt a child from India.

4. Insofar as the adoptive father is concerned, he is working as a Crew Foreman with Mas Tec, Dunn, USA for last ten years and his current annual salary is US\$ 65,000. His employment certificate is placed on record. The adoptive mother is a home maker. The US individual income tax returns for the tax years 2016, 2017 and 2018 are placed on record. The bank details, financial statements and proof of residence annexed to the petition.

5. There is a medical report dated 14 April 2019 of the adoptive parents interalia stating that they neither suffer nor suffered from any major illness as specified. The authorised medical practitioner has certified that they also do not suffer from any chronic, contagious or fatal disease and they are fit to adopt a child. Their HIV and HbsAg test reports are also in the negative.

6. There is a home study report dated 10 June 2019 and 27 August 2019 of the adoptive parents conducted by the authorities of “Nathanson Adoption Services”, USA, which record that the adoptive parents are capable of providing the physical and emotional needs of a child or children. They are found to be physically, mentally and emotionally ready to be the adoptive parents. They are recommended for the adoption of one female child from India with special needs. There is also a psychological evaluation report of the adoptive parents dated 6 July 2018, which records nothing in negative, it also records that the adoptive parents would be able to effectively care and parent a special needs child from India.

7. There is a Article 5 letter dated 24 October 2019 from the Embassy of the USA, Office of Children’s Issues, U.S. Department of State, Washington, DC. The petitioners have also placed on record a child care arrangement statement of the adoptive parents. There is also a child security undertaking dated 2 July 2019 by the parents of the adoptive mother to look after the minor in case of any unfortunate mishap to the adoptive parents. The parents of adoptive mother are also permanent residents of USA.

8. In so far as minor Ashwini is concerned, there is medical examination report dated 21 August 2019 of minor Ashwini which

states that the status of the child is of special needs (intellectual Disability). She is a pleasant child. She is currently asymptomatic for any disease. All this is consistent with a diagnosis of Down's Syndrome. Her blood reports reveal sickle cell trait which is asymptomatic. The adoptive parents have examined the report and have also countersigned these medical report of minor Ashwini. There is also a report of psychological testing dated 24 July 2019 which records that minor Ashwini's IQ is 62% and SQ is 54%. Overall impression which has been recorded is that she has mild intellectual disability and mild social disability. Her language, speech and hearing report dated 10 November 2019 records that minor Ashwini is having a delay in speech and language milestones acquisition, with mental retardation and requires intensive speech therapy sessions and also conducive environment for achieving her full potentials. This report is also examined by the adoptive parents and has been countersigned. The HIV report of minor Ashwini certifies the case as non-reactive. A passport card size photograph of minor is placed on record.

9. There is a joint declaration of the adoptive parents of their willingness to be appointed guardian of minor Ashwini. There is also an undertaking in regard to the medical needs of the child and that they shall allow personal visits of the representative of Authorised Foreign Adoption Agency (AFAA) to ascertain the progress of the child. There is a undertaking dated 23 August 2019 of the Authorised Foreign Adoption Agency "America World Adoption" Virginia, USA to post adoption provide follow-up reports of the child.

10. There is a special power of attorney duly signed by the adoptive parents in favour of the petitioner institution which is placed on record.

11. The petitioner institution's recognition from the Women & child Development, Maharashtra State to place children in adoption is valid for a period from 1 August 2014 to 31 July 2019. The petitioner institution has applied for renewal and in the interregnum has filed this adoption petition under the provisions of Regulation 24(5) of the Adoption Regulations 2017.

12. Mr. O. Hareendran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, has made a representation (marked 'X' for identification), setting out all the details in regard to the proposed adopters. This representation does not indicate anything adverse, for this court, not to permit the adoption in question.

13. The adoptive parents desire to change the name of minor Ashwini as "**Piper Mai House**".

14. Having heard the learned Counsel for the petitioner and having perused the record as noted above, the permission as granted by CARA as also having perused the report of Mr. O. Hareendran, Scrutiny Officer from the Institute of Child and Social Welfare dated 21 February 2020, in my opinion the adoptive parents appear to be suitable to adopt the minor. Considering the paramount interest and welfare of the minor female child Ashwini and the intention, desire and spirit of the adoptive parents, to have in adoption a minor child like Ashwini 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 "America World Adoption" Virginia, USA. The agency shall for a period

of three years send half yearly reports in regard child 'Ashwini' to CARA. I thus do not find any impediment in granting the reliefs as prayed for.

15. Hence, the following order:-

ORDER

1. The Foreign Adoption Petition is allowed in the following terms:-

(a) The female minor Ashwini born on 7 February 2013 be granted in adoption to the proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) It is declared that the Adopters Mr. Robert Dwayne House and his wife Mrs. Tiffany Marie House shall be the Adoptive Parents of the said minor and shall have all parental rights, privileges and responsibilities over the said minor child Ashwini now in the care and custody of Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai-400 011.

(c) That the proposed adopters are allowed to change the name of the minor Ashwini to Piper Mae House.

(d) Leave/Permission is granted to apply to the concerned Municipal Authorities to issue Birth Certificate of the said minor Piper Mai House.

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

2. The Judge's order is separately signed.

3. The adoptive parents shall also through concerned Authorities 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 and certified copy of this order expeditiously.

[G.S. KULKARNI, J.]