

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

FOREIGN ADOPTION PETITION NO. 5 OF 2020

M. S. W. C. Asha Sadan BalgruhPetitioner

V/s.

Nilesh Anil Naik and Anr.Proposed
Adopters

Ms Dipal Sanjanwala Mehta, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer.

CORAM : G.S. KULKARNI, J.

DATE : 6 MARCH 2020

P. C.

This is a foreign adoption petition wherein the petitioner, M.S. W.C. Asha Sadan Balgruh, Asha Sadan Marg, Umerkhadi, Mumbai-400 009, an adoption agency alongwith the co-petitioners Mr. Nilesh Anil Naik and his wife Mrs. Poonam Nilesh Naik, both of whom are Indian nationals residing at Apartment-104, Diamond 1-B, Plot No. 93, Municipality No. 392-257, Marina Marsa, Dubai, U.A.E, (for short “the adoptive parents”) are before the Court praying that female minor “Susmitha” born on 4 October 2016 be granted in adoption to the adopters.

2. Minor Susmitha was surrendered by her biological parent before the Child Welfare Committee (for short “CWC”), Mumbai City-I on 24 December 2018 for the child’s permanent rehabilitation. The custody

of the child was given to the petitioner specialized adoption agency by an order dated 13 October 2016 of the CWC passed under Section 31 of the Juvenile Justice Act. This order is also placed on record. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “Juvenile Justice Act”) the CWC declared the child legally free for adoption as on 26 June 2019.

3. Insofar as, the adoptive parents are concerned, they are Indian nationals residing at Dubai, aged 45 and 46 years respectively. The adoptive parents are married for past 12 years (date of marriage 29 April 2008) with no biological children.

4. Medical reports of the adoptive parents dated 2 January 2020 are placed on record, which record that the health of the adoptive parents do not disqualify them in parenting a child in any way. Their HIV I and II and HBsAg Test reports are also in the negative.

5. Insofar as the employment details of the adoptive father are concerned, it is stated that he is working as a English Copy writer with Grey World Wide Co., LLC, Dubai, UAE since 14 August 2018. His net monthly salary is AED 24,000/-. His employment/Salary certificate and pay slips are placed on record. The adoptive mother is a homemaker. Their bank references, degree certificates, loan details

and property particulars alongwith passport copies and joint photograph of the adoptive parents are placed on record.

6. There is a home study report dated 23 March 2017 of the adoptive parents conducted by the recognized social worker Mrs. Omana Menon, Dubai, UAE, which records that the adoptive parents are well prepared mentally, physically, financially and socially for adoption. They are happily married and had decided that they would like to start their family by adopting a child. Both sides of the families are fully supportive of their decision to adopt and are completely willing to participate in the upbringing of the child. The home environment was found to be excellent to bring up a child in a healthy and happy space. On an over all assessment the social worker has recommended the adoptive parents for adoption of a healthy and normal girl child in the age group of 0-2 years.

7. There is also a Psychological Evaluation report of the adoptive parents dated 17 September 2019 which records a finding that the couple has a psychologically and emotionally stable and well balanced personality. They also have a well functioning marital relationship based on love, trust and responsibility.

8. A child care arrangement plan by the adoptive parents is also placed on record. A Child security undertaking dated 29 December 2019 by the brother and sister-in-law of the adoptive mother is also placed on record who are residing at Georgia, USA, who undertake to look after the minor in case of any unforeseen mishap to the adoptive parents.

9. In regard to minor Susmitha, there is a medical report dated 31 July 2019 which records that she has treated for pulmonary tuberculosis from 3 March 2017 to 3 September 2017. Her mental development is normal for age. Speech clarity needs improvement for which child is getting speech therapy. Overall observation of the child is that she is a normal, healthy child. The adoptive parents have examined and counter signed the said report. The HIV report of minor Susmitha dated 17 July 2019 certifies the case as non-reactive. Her social quotient report dated 19 July 2019 states that on the basis if she gains a social quotient of 93 points, which places her in an average range of social functioning. She is currently performing quite well. She needs speech and language training.

10. There is also a joint declaration/undertaking of willingness of the adoptive parents, recording that they will look after minor Susmitha as their own daughter and that they would provide

necessary education and upbringing according to their status. They further undertake that they shall send post placement reports of the said child together with recent photographs as required by the Court.

11. There is also an undertaking dated 25 September 2019 of the Authorized Foreign Adoption Agency (AFFA) “Mrs. Omana Menon”, Dubai, UAE to provide follow-up report of the child. There is also a power of attorney dated 25 December 2019 duly signed by the adoptive parents in favour of the petitioner institution as placed on record.

12. The CARA (The Central Adoption Resource Authority) has also issued a no objection certificate dated 19 December 2019 opposing the adoption.

13. 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.

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 27

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 Susmitha and the intention, desire and spirit of the adoptive parents, to have in adoption a minor child like Susmitha, 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 “Mrs. Omana Menon”, Dubai, UAE. The agency shall for a period of three years send half yearly reports in regard child ‘Susmitha’ to CARA. I thus do not find any impediment in granting the reliefs as prayed for.

15. Hence, the following order:-

ORDER

(a) The female minor Susmitha born on the 4 October 2016 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. Nilesh Anil Anik and his wife Mrs. Poobnam Nilesh Naik shall be the Adoptive Parents of the said minor and shall have all parental rights, privileges and responsibilities over the said minor child Susmitha now in the care and custody of

M.S. W.C. Asha Sadan Balgruh, Asha Sadan Marg,
Umerkhadi, Mumbai-400 009.

(c) That the proposed adopters are allowed to change the name of the minor **Susmitha** to **Eva Nilesh Naik**.

(d) Leave/Permission is granted to apply to the concerned Municipal Authorities to issue Birth Certificate of the said minor **Eva Nilesh Naik**.

(e) That the proposed Adopters may be granted leave to remove the said minor Eva Nilesh Naik, from the jurisdiction of this Hon'ble Court and to take the said minor to Dubai, UAE 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 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.]