

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION
FOREIGN ADOPTION PETITION NO. 49 OF 2019
with
JUDGE'S order no.238 of 2019**

1.Children of the World India Trust ...Petitioner
And
1. Nicola Belcari, Italian National
2.Ilria Belliti, Italian National ...Proposed Adopters

Mr.Rakesh Kapoor, Advocate for the Petitioner.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

CORAM : G.S. KULKARNI, J.

DATE : 10th January 2020

P. C.

This is a foreign adoption petition wherein Children of the World India Trust-Petitioner, a recognized adoption agency by State Government as well as Central Adoption Resource Authority (CARA), New Delhi are before the Court alongwith the co-petitioners Mr.Nicola Belcari and his wife Ilria Belliti (for short 'the adoptive parents'), who are residents of Le Carretelle, 66-57016 Rosignano Marittimo (LI) Italy, praying that female minor **Laxmi Machindra Kamble** born on 18 October 2015 be given in adoption to the adoptive parents.

2. Minor Laxmi's biological mother expired on 2 February 2018. Her biological father was unable to look after minor Laxmi. Accordingly, Laxmi was admitted to the petitioner institution on 3 August 2018 as per the order passed by the Child Welfare Committee, Thane under the provisions of Section 38 of the Juvenile Justice (Care and Protection of the Children) Act, 2015 (for short 'the Juvenile Justice Act'). The biological father thereafter executed a deed of surrender before the Child Welfare Committee, Thane on 25 September 2018 for her permanent rehabilitation.

3. Thereafter, the Child Welfare Committee undertook an inquiry under Section 38 of the Juvenile Justice Act and by an order dated 4 January 2019 declared minor Laxmi free for adoption. The Central Adoption Resource Authority ('CARA'), issued a no objection certificate dated 13 September 2019 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, certifying the adoption of minor Laxmi by the adoptive parents.

4. In so far as the adoptive parents are concerned, as noted above, they are Italian nationals, aged about 45 and 46 years respectively. They are married for last nineteen years (Marriage date: 10 December 2000) with one biological son "Giovanni" aged about 14 years and one

adopted son “Faye Francesco” aged about 9 years from Ethiopia. The birth certificates/citizenship and consent letters of the adoptive family are placed on record alongwith the family photograph and copies of the passport of the adoptive parents.

5. The health reports dated 8 August 2019 of the adoptive parents are placed on record stating that they are not suffering from any chronic or contagious or terminal diseases and they do not have any physical or mental conditions to interfere with the care to be taken of the adopted child. Their HIV Test Report certifies the case as negative.

6. The adoptive father is working as an Associate Professor, Department of Physics with the University of PIASA, Italy from 1 November 2016 and has gross annual income of Euro 50,834.74 equivalent to Rs.40,23,061/-. The prospective adoptive mother is working as a Professor with the Secondary State School of First Grade Giovanni Bartolena Livorno, Italy from 1 September 2007 and her income from the year 2018 was Euro 26,350.00 equivalent to Rs.20,85,444.40. The income tax certificates of the adoptive parents for the year 2016, 2017 and 2018 are placed on record. The Bank Reference, property declaration and proof of residence are also placed on record. The adoptive parents have also placed on record a Childcare Affidavit dated 30 August 2019 setting out in detail that

their recognition of the basic human values and all other necessary facets for good and proper development of child to be taken in adoption.

7. There is a home study report dated 8 February 2017 of the authorities “Associazione “I Bambini Dell’Arcobaleno-Bambara ONLUS”, Codice Fiscale 93017430252, www.bambaroo.lt, having its address at Sede Centrale, Longarone (BL) Italia, which contains all facts in regard to the family background of the adoptive parents and their information, details of the adoptive children, their employment details and financial position, description of home and neighbourhood, attitude of the grandparents, other relatives, child desire and family’s consideration of possible special needs, anticipated plans of the adoptive parents for adopted child and rearing in the family, ability of parenting and attitude to promote the child’s cultural heritage and preparation and training for adoption, plans for disclosure of facts of adoption to the child, psycho-social assessment of the adoptive parents, Police reports, health status, motivation for adoption report and names and addresses of the References. The report indicates that the adoptive parents have instruments and resources both social and personal to permit to an adoptive minor to insert in as serene way as possible in a different context under many aspects and recognised adoption. It also records that they are well-

versed with the consequence of the adoption and role as adoptive parents. They do not have any prejudice and are open minded and able to cope up with the possible difficulties and to collaborate for the creation of new balances in the family. They have adequate resources to guarantee health care and emotional support for the best psychophysical and moral development of the child. The adoptive sons are also ready to accept the arrival of an adoptive sibling. There is Psychological Assessment Report dated 21 March 2018 of the “Association-I Bambini Dell’Arcobaleno-Bambaarco ONLUS’ Italy.

8. There is a suitability decree from the Juvenile Court of Firenze, Italy and Adoption Guarantee Letter issued by the Commission for Intercountry Adoption on behalf of the Government of Italy dated 5 April 2016.

9. In so far as the medical examination report of the minor dated 1 April 2019, it records that there is mild developmental delay, especially speech. Her psychological assessment report is also on record. The adoptive parents have countersigned these reports and also have given separate acceptance letters dated 21 June 2019. The HIV report of the minor is dated 4 October 2019 certifying the case as non-reactive.

10. A family photograph of the adoptive parents alongwith two children is also placed on record as also post card size photograph of the minor is also place on record at page 191.

11. There is also a declaration of willingness and undertaking of the adoptive parents as placed on record which states that they desire to adopt the minor Laxmi and further undertake that they will permit home visit of the social worker during post adoption follow-up and shall legally adopt the said minor within two years from the date of arrival of the minor at their home.

12. There is also an undertaking of the Authorized Foreign Adoption Agency "Association-I Bambini Dell'Arcobaleno-Bambaarco ONLUS", Italy dated 6 August 2019 to furnish post adoption follow-up report and for necessary action in case of disruption in the adoptive family.

13. As regards the name of the minor is concerned, the adoptive parents desired that minor 'Laxmi Machindra Kamble' be renamed as 'Laxmi Benedetta Belcari'.

14. A general power of attorney dated 27 August 2019 was executed by the adoptive parents in favour of the petitioner to pursue this proceeding. It is stated that it was permissible for the petitioner-

institution to move this petition although its recognition was valid upto 31 July 2019 as per the Regulation 24(5) of the Adoption Regulations,2017.

15. There is a representation of Mr. O. Hareenran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, (marked 'X' for identification), in which setting out all the details in regard to the proposed adopters offers no adverse comment, not to permit the adoption in question.

16. 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 27th December 2019, in my opinion considering the paramount interest and welfare of the minor female child **Laxmi** and the intention, desire and the spirit of the adoptive parents, to have in adoption a minor child like **Laxmi** 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 "Association-I Bambini Dell'Arcobaleno-Bambaarco ONLUS", Italy. The agency shall for a period of three years send half yearly reports in regard child '**Laxmi**' to CARA.

17. 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 **Laxmi Benedetta Belcari**, born on 18th day of October,2015 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 **Laxmi Benedetta Belcari** now in the care and custody of Children of the World India Trust, Vishwabalak Kendra, Plot No.9 & 10, Sector-12, Nerul, Navi Mumbai-400706.

(c) That the proposed adopters be allowed to change the name of the minor Laxmi Machindra Kamble to "**Laxmi Benedetta Belcari**".

(d) Leave/Permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor **Belcari Laxmi Benedetta**.

(e) That the Proposed Adopters may be granted leave to remove the said minor **Belcari Laxmi Benedetta** from the jurisdiction of this Hon'ble Court and to take the said minor to **ITALY** or wherever they may reside in future.

2. The Judge's order is separately signed.
3. The adoptive parents shall also through Authorized Foreign Adoption Agency "Association-I Bambini Dell'Arcobaleno-Bambaarco ONLUS", Italy 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.]