

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

FOREIGN ADOPTION PETITION NO. 51 OF 2019

Bal Asha Trush	Petitioner
V/s.	
Chad Allen Wright and Anr.	Proposed Adopters

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

CORAM : G.S. KULKARNI, J.
DATE : 17 FEBRUARY 2020

P. C.

This is a foreign adoption petition wherein the petitioner, Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai-400011, a recognized adoption agency alongwith the co-petitioners Mr. Chad Allen Wright and his wife Mrs. April Marie Wright, both of whom are American nationals having their address at 915 Caribou Court, Raymore, Missouri 64083, Cass Country, U.S.A., (for short “the adoptive parents”) are before the Court praying that female minor “Durva” born on 1 February 2018 be granted in adoption to the adopters.

2. Minor Durva was surrendered by her biological parent before the Child Welfare Committee (for short “CWC”), Kolhapur on 15 February 2018. The custody of the child was given to the Specialized

Adoption Agency namely Shishu Gruha, Kolhapur by an order dated 15 February 2018 of the CWC, Kolhapur. On 25 April 2018, the CWC, Kolhapur passed an order declaring that the child would be legally free for adoption. Copy of the order is placed on record. The CWC, Kolhapur transferred the child to the CWC at Mumbai as per its further order dated 24 May 2018. The CWC, Mumbai admitted minor to the petitioner institute with effect from 5 June 2018 as per the Safe Custody order dated 8 June 2018 passed under Section 36 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the Juvenile Justice Act”). This order is also placed on record.

3. Insofar as, the adoptive parents are concerned, they are American nationals, aged 39 and 40 years respectively. The adoptive parents are married for past 13 years (date of marriage 29 April 2006) with no biological children. The adoptive parents adopted one daughter namely Anjali, now aged about 3 ½ years, who is also from India. Anjali's citizenship certificate, birth certificate, declaration and medical certificate are on record. She is also a special needs child having Ventricular Septal Defect. Her current health reports state her to be normal. A family photograph of the adoptive parents alongwith Anjali is placed on record.

4. Medical reports of the adoptive parents are placed on record. In regard to the adoptive father these are reports dated 25 July 2019 and 13 July 2018, which record that he has an anxiety disorder that is controlled with medicine. He is in good physical and mental health and does not suffer from any serious chronic, contagious or venereal disease as also tuberculosis. Also his HIV and HbsAg Test reports certify the case as “Negative”. He is certified to be suitable to adopt a child outside his country. Similarly there are health reports dated 25 July 2019 and 13 July 2018 of the adoptive mother which record nothing significant except that she has some seasonal allergies which are controlled. It is also recorded that she met with a motor vehicle accident in year 2017 and with an exploratory surgery and physical therapy she is no more sequelae. She is stated to be in good physical and mental health and does not suffer from any serious chronic disease, contagious venereal diseases, tuberculosis or any other diseases, also her HIV and HbsAg Test Reports certify the case as “Negative”. She is also certified to be suitable to adopt a child outside her country.

5. In the employment details of the adoptive father, it is stated that he is working as a Fire Captain with City of Belton. His gross wages for 2018 was USD 50,405. He also works as Paramedic on PRN basis at

Belton Regional Medical Center and earned USD 10,950 for the year 2018. His income/employment certificates are placed on record.

6. The adoptive mother is also employed since 1 December 2004 as a Physical Therapist by the ability K-C formerly Rehabilitation Institute of Kansas City, a NGO serving children and adults. Currently she is working on PRN/On-call basis as a Physical Therapist at Adult Outpatient Medical Rehabilitation Services of the said organization. Her annual salary for the year 2018 was USD 4,488. The U. S. Individual Income Tax Returns for the years 2016, 2017 and 2018 are placed on record, as also financial statement and proof of residence are placed on record. In the latest home study report, it is noted that adoptive mother's annual salary from Ability KC is now USD 10,000. Their combined annual income is of approximately USD 80,170. They also have assets totaling USD 692,278 which include real estate totaling USD 305,440, personal property totaling USD 46,233, checking account totaling USD 1,672 and vehicles totaling USD 56,500. They have liabilities totaling USD 81,192 which include a home mortgage. Their overall net worth is to be USD 611,086.

7. There is a home study report dated 10 August 2018 of the adoptive parents conducted by the authorities of "Adoption & Beyond, Inc." Kansas, U.S.A., which records that adoptive parents are

physically, behaviorally, mentally, financially and emotionally healthy and capable of parenting an internationally adopted child. It is also recorded that they are eligible, equipped and suitable to adopt and possess the ability to undertake an international adoption. The social worker has also recommended them to adopt one child of female gender, zero to two years of age, who is healthy or mild to moderate special needs from India. As the home study report was dated 10 August 2018 and which was valid till 10 August 2019, a fresh home study report (marked 'X' for identification) is submitted on behalf of the petitioners, which is dated 23 August 2019. This home study records that the adoptive parents are open to adopt one female child zero to four years of age from India. It is stated that they would like to adopt a child who is healthy or who has mild to moderate special needs. They have created a special needs adoption plan for a child born with club foot/feet, one of the special needs, they are open and are mentally prepared as also have the ability to provide proper care for children with special needs. This report makes the following recommendation:-

“Recommendation: Based on the facts presented within this home study, it has been assessed that Chad and April Wright are recommended to adopt one child, of female gender, zero to four years of age, who is healthy or who has mild to moderate special needs, from India.(See the table below for the special needs that the family has been recommended.) Adoption & Beyond, Inc. has agreed to provide post-adoption supervision following the adoption of a child or children in the home”.

8. There is also a Psychological Evaluation report of the adoptive parents dated 31 July 2018 which records a finding that there is no indication that the couple is not in a stable psychological health and records that they have the capacity to parent and provide a safe and loving home for a child.

9. There is an Article-5 letter dated 24 October 2019 issued by the Embassy of the United States of America, Office of Children's Issues, U.S. Department of State, Washington, D.C. and Article-17 Approval Notice dated 19 September 2018.

10. A child care arrangement statement of the adoptive parents is also placed on record. A Child security undertaking dated 24 August 2019 by the brother and sister-in-law of the adoptive father is also placed on record who undertake to look after the minor in case of any unfortunate mishap to the adoptive parents.

11. In regard to the first adoptive child (Anjali) in the latest home study report, she is certified to be in good health. She is now above three years of age. During the visit she was found to be playful, active and vocal. The social worker during the visit observed the adoptive parents to be attentive and loving towards Anjali. Anjali also is in

good health with no signs of infectious disease and a normal life expectancy.

12. In regard to minor Durva, there is a medical report dated 22 November 2018 which records that she is a child with special needs having Congenital deformity of right foot and moderate hearing loss. She is stated to be born with right tibial hemi-melia with foot deformity (CTEV). She has been operated for right ankle postero-medial soft tissue release on 2 January 2019. The adoptive parents have examined medical reports of minor Durva and have counter signed the said reports. There is also report of Psychological Testing dated 13 June 2019 of minor Durva which records that Durva's overall DQ is 56% which is suggestive of significant developmental delay. The adoptive parents have counter signed this report. The HIV report of minor Durva dated 25 June 2018 certifies the case as non-reactive.

13. There is also a joint declaration of willingness and undertaking of the adoptive parents recording that they are desirous of adopting Durva. The adoptive parents have received Durva's study reports and medical examination reports and other relevant medical reports and have accepted the same. They confirm to be willing to take care of her medical needs.

14. There is also an undertaking dated 24 August 2019 of the Authorized Foreign Adoption Agency (AFFA) “Children of the World” Alabama, USA to provide follow-up report of the child. There is an affidavit in support of petition as made by the authorised representative of petitioner institution. There is also a special power of attorney duly signed by the adoptive parents in favour of the petitioner institution as placed on record.

15. The CARA (The Central Adoption Resource Authority) has also issued a no objection certificate dated 8 November 2019 opposing the adoption.

16. Mr. O. Hareendran, Scrutiny Officer of the Indian Counsel of Social Welfare, Central Office, Mumbai, has made a representation (marked ‘X-1’ 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. There is an additional representation from Indian Council of Social welfare dated 10 February 2020. (marked ‘X-2’ for identification).

17. 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 6 January 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 Durva and the intention, desire and spirit of the adoptive parents, to have in adoption a minor child like Durva 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 “Children of the World” Alabama, USA. The agency shall for a period of three years send half yearly reports in regard child ‘Durva’ to CARA. I thus do not find any impediment in granting the reliefs as prayed for.

18. Hence, the following order:-

ORDER

(a) The female minor Durva born on the 1st day of February, 2018 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. Chad Allen Wright and his wife Mrs. April Marie Wright shall be the Adoptive Parents of the said minor and shall have all parental rights, privileges and responsibilities over the said minor child Durva 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 are allowed to change the name of the minor **Durva** to **Durva Joy Wright**.

(d) Leave/Permission is granted to apply to the concerned Municipal Authorities to issue Birth Certificate of the said minor **Durva Joy Wright**.

(e) That the proposed Adopters may be granted leave to remove the said minor Durva Joy Wright, 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 of this order.

[G.S. KULKARNI, J.]