



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P (MD)No.996 of 2020

WEB COPY

1.St.Joeph Charity Institute,
Registered Office at Adaikalapuram,
Tiruchendur Via
Thoothukudi District 628 217 ..Applicant
(Through its adoption incharge/Director Rev.Fr.Joseph Isidore)

AND

2.Mr.Balasubramanian Mugunthan
3.Aparnadhevi Mugunthan ..Prospective Adoptive Parents

Prospective Adoptive Parents represented by their power of attorney
Mr.P.Wilson, Social Worker, St.Joseph's charity Institute,
Adaikalapuram, Thoothukudi - 628 217.
As per the regulation 17(2) of Adoption Regulations 2017.
... Power Agent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the return dated 04.03.2020 followed by the another return dated 20.08.2020 by the learned District Judge, Thoothukudi in unnumbered Adoption Petition SR.No.248 of 2020 and to direct the learned District Judge, Thoothukudi to number the original Adoption Petition and take the adoption petition on the file of the learned District Judge, Thoothukudi.

For Petitioners : Mr.S.R.Anbarasu

O R D E R

The first petitioner herein is the specialized adoption agency under the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. The matter pertains to granting a young aged child around 2 1/2 years in adoption to a certain Mr. and Mrs. Balasubramanian both of who are Non Resident Indians, living in the United States. The entire pre-adoption procedures have been complied with, and as required by Regulation 12 of the Adoption Regulations, 2017, the specialized adoption agency has preferred an application before the District Court, Thoothukudi, along with the adoptive parents. However, since the adoptive parents are abroad and due to Covid-19 circumstances, since they could not fly safely to India, they are represented by their authorized power of attorney. The learned



District Judge has entertained a doubt if the adoptive parents in the matter of adoption can be represented by a power of attorney.

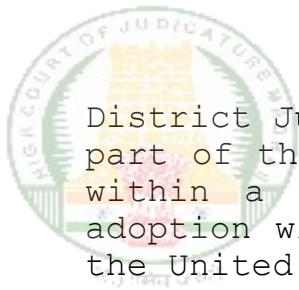
3. The apprehension of the learned District Judge is not entirely misplaced as there have been instances where there were considerable abuse more particularly in inter-country adoption. Now under the Juvenile Justice (Care and Protection of Children) Act, 2015, as per Sec. 68 of the said Act, regulations have been framed for giving and taking adoption.

4. So far as the adoptive parents are concerned, they are Non Resident Indian living in the United States of America. As required under Regulation 12 Adoption Regulations, 2017 specialized adoption agency may have to file application before the District Court. The entire scheme of the Act and the Regulations however, do not require the District Court to adjudicate on anything. It appears from the scheme of the enactment that the legislature is extremely anxious to see that the procedure contemplated for giving and taking adoption in terms of the Act is duly complied with. Therefore, the District Court only operates to ensure that the procedure as contemplated is duly complied with.

5. The procedure is looked keenly. There has to be evaluation procedure of the adoptive parents and if the adoptive parents are living abroad, then, necessary verification has to be done by a similar agency in the country of their residence, and it is only after securing all these materials, the specialized adoption agency can apply under Regulation 12 of Adoption Regulations, 2017. The regulation on the face of it does not contemplate that the adoptive parents shall be physically present along with the specialized adoption agency where the application is filed. Therefore, it is only appropriate to let the adoptive parents represented by a power of attorney. However, in the process of satisfying itself that the pre-adoption procedure as contemplated under the Act has been duly complied with, the District Court has power to interview with the adoptive parents about the same.

6. The learned counsel for the revision petitioners submits that once the petition is taken on file, and the Court notifies the date, the adoptive parents will try to reach India to appear before the Court and to take the child Bharathi. He also submitted that these are Corona days and there are not too many flights between the United States of America and India.

7. For the present, this Court only considers it appropriate to direct the learned District Judge to take the papers on his file and notify the convenient date for the adoptive parents to travel to India as early as possible. It is relevant to mention that Regulation 18 of the Scheme only requires the presence of the adoptive parents for taking the child within a period of two months of passing of the order of adoption. If the learned



District Judge is keen to ascertain any procedural compliance on the part of the adoptive parents, he may condense the whole proceedings within a period of two months and also issue a certificate of adoption within this period to enable the parents to travel back to the United States of America along with the child.

8. Since the matter is pending before the District Judge close to a year, the learned District Judge is required to dispose of the matter latest by 31.01.2021.

9. With the above directions, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

CM

To

1.The District Judge, Thoothukudi

2.The Section Officer

V.R.Section, Madurai Bench of Madras High Court,
Madurai (2 Copies)

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