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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 2ND DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P. No.456 of 2021

In the matter of Juvenile Justice Act
& In the matter of Minor Nakshatra
now known as ISAIMALAR
(female) Date of Birth 06.10.2020.

1. Varshini Illam Trust, rep. by authorized person,
Mr.John Alex, No.108, AH Block, 4th Street,
Shanthi Colony, Anna Nagar,
Chennai-600 040.

2. Mr.A.S.Suresh Kumar,
Son of Mr. M. Sivasamy

3. Mrs.A.Uthariamary,
W/o. A.S.Suresh Kumar,
Both residing at No. 203/81 Thamarai Nagar,
Sathiram M. Purthur Post,
Thottiyam, M. Pudur, Tiruchirapalli 621203.

.. Petitioners

Original Petition praying that this Hon'ble Court be pleased the

Petitioners Mr.A.S.Suresh Kumar and Mrs. A.Uthariamary W/o. A.S.Suresh

Kumar both are residing at No. 203/81 Thamarai Nagar, Sathiram M.

Purthur Post, Thottiyam, M. Pudur, Tiruchirapalli 621203 be appointed as



parents of the minor female child Nakshatra now known as ISAIMALAR whose date of birth is 06.10.2020.

a) That the prospective adoptive parents may please be declared as parents of the person of the said minor child for all purposes allowed by the law and up bring the child as their own child with the legal status of a biological child with all the rights of succession and inheritance

b) That the Birth Certificate Issuing Authority may please be directed to issue birth certificate for Child Nakshatra now known Isaimalar within five working days from the date of application, as per the provisions of sub-regulations (5) of the regulations 18 and regulation 36 of CARA Regulations.

This Original Petition coming on this day before this court for hearing in the presence of Mrs. Jayasudha Suryanarayanan, Advocate for the Petitioner herein, and upon reading the petition together with the Declaration of willingness of A.S.Suresh Kumar and A.Uthariamary, the petitioners 2 & 3 herein, accepting to be the adoptive parents of the minor above named, and the other exhibits therein referred to and upon perusing



petitioners 2 and 3 herein are fit and proper persons to take adoption of the female child and to be the adoptive parents of the minor female child, it is ordered as follows:-

That 1) A.S.Suresh Kumar and 2) A.Uthariamary, the petitioners 2 & 3 herein, both are residing at No. 203/81, Thamarai Nagar, Sathiram M. Purthur Post, Thottiyam, M. Pudur, Tiruchirapalli 621203, be and are hereby appointed as natural guardians/parents of the minor female child Nakshatra, now known as Isaimalar, whose date of birth is 06.10.2020, whose photograph is duly attested and annexed hereto, as per 56(1) of the Juvenile Justice of 2015 as amended by Act 2 of 2016, and they are hereby declared as the adoptive parents for the person of the said minor child.

2. That the petitioners 2 and 3 herein, be and are hereby permitted to take the said minor child to the country of their residence for up-bringing the child as their own child with the legal status of a biological child with all the rights of succession and inheritance.

3. That the Birth Certificate issuing Authority is hereby directed to issue Birth Certificate for the said minor child, within five working days from the date of application thereof, as per the provisions of sub-regulation



(5) of Regulation 18 and Regulation 36 of the CARA Regulations.

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Annexure

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
2ND DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (O.S II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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22.09.2021

O.P. No.456 of 2021

ORDER

DATED : 02.08.2021

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

FOR APPROVAL: 23/09/2021

APPROVED ON: 24/09/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.456 of 2021

1. Varshini Illam Trust, rep. by authorized person,
Mr.John Alex, No.108, AH Block, 4th Street,
Shanthi Colony, Anna Nagar,
Chennai-600 040.

2. Mr.A.S.Suresh Kumar

3. Mrs.A.Uthariamary

.. Petitioners

Original Petition (O.P) filed under Section 56(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with Regulations 12(2) of the Regulations framed thereunder.

For petitioners : M/s.Jayasudha Suryanarayanan

ORDER

This Original Petition is filed under Section 56(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with Regulations 12(2) of the Regulations framed thereunder, praying for the



(a) The second and third petitioners, Mr.A.S.Suresh Kumar and Mrs.A.Uthiramary, wife of A.S.Suresh Kumar, both residing at No.203/81, Thamarai Nagar, Sathiram M.Puthur Post, Thottiyam, M.Pudur, Tiruchirapalli-621 2013, may be appointed as parents of the minor female child Nakshatra, now known as Isaimalar, whose date of birth is 06.10.2020.

(b) that the prospective adoptive parents may please be declared as parents of the person of the said minor child for all purposes allowed by the law and up-bring the child as their own child with the legal status of a biological child with all the rights of succession and inheritance.

(c) that the Birth Certificate issuing Authority may be directed to issue Birth Certificate for child Nakshatra, now known as Isaimalar, within five working days from the date of application, as per the provisions of sub-regulation (5) of Regulation 18 and Regulation 36 of the CARA Regulations.

2. The facts as culled out from the petition filed by the petitioners, are briefly stated hereunder:

(a) The first petitioner is a recognized Specialized Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children), 2015 (2 of 2016) by the State Government of Tami Nadu, for
rehabilitating orphans, abandoned and surrendered children through



adoption in accordance with the provisions of the Juvenile Justice Act and Adoption Regulations. The in-country licence granted to the first petitioner-institution by the Government of Tamil Nadu had been renewed on 23.12.2016 and the period of validity of the certificate is five years from 23.12.2016 to 22.12.2021. The said institution has now shifted from Varshini Trust Villa No.2, Block No.59, Bollinenni Hill Side Nookampalayam, Perumbakkam Road, Chennai-126 and functioning as a specialized Adoption Agency to No.108, AH Block 4th Street, Shanthi Colony, Anna Nagar, Chennai-600 040, vide letter R.O.C.787/SARA/2019, dated 04.08.2020 by the Commissioner, Department of Social Defence, Government of Tamil Nadu.

(b) The first petitioner is a registered Child Care institution, which is having the care and custody of the minor female child Nakshatra, now known as Isaimalar, having date of birth as 06.10.2020.

(c) The second petitioner is Mr.A.S.Suresh Kumar, son of Mr.M.Sivasamy about 44 years and the third petitioner is Mrs.A.Uthariamary, wife of Mr.A.S.Suresh Kumar, aged about 43 years, both residing at No.203/81, Thamarai Nagar, Sathiram M.Pudur Post, Thottiyam, M.Pudur, Tiruchirapalli-621 203.

(d) The Authorised person Mr.John Alex is a Trustee Varshini



having its Registered Office at 108, AH Block, 4th Street, Shanthi Colony, Anna Nagar, Chennai-600 040.

(e) The minor female child above named born on 06.10.2020 was surrendered by the biological mother before the Child Welfare Committee, Thiruvallur, who handed over the child to the first petitioner-institution on 20.10.2020. The said female minor child was declared as legally free for adoption by the Child Welfare Committee, Thiruvallur, by its order dated 11.01.2021. Hence, the child was free for adoption and now the child is about seven months old.

(f) The second petitioner and the third petitioner are the Indian citizens. The date of birth of the second petitioner is 31.07.1976 and that of the third petitioner is 13.06.1978. They got married on 15.02.2007. The second and third petitioners do not have biological child and they wanted to adopt a child. They believe that they have much to offer a child, including their home, love and ability to financially care for a child.

(g) The second petitioner is working as a Supervisor in TASMACH and gets annual income of Rs.1,32,120/- and the third petitioner is working as Teacher in Panchayat Union School, Kaduvetti and gets an annual income of Rs.6,14,789/-. The financial position of the couple is good.

(h) The petitioners 2 and 3 states that they registered for adoption



system of the matching as per the new CARA guidelines 2015 child Nakshatra, now known as Isaimalar, was matched on-line and the second and third petitioners accepted to adopt child Nakshatra, now known as Isaimalar on 06.10.2020, also state that all particulars called for them along with the home study report conducted on home-study report conducted on SOCSEAD, Trichy on 12.06.2018. The minor child Nakshatra was shown to the couple and they also decided to adopt the child. The said child was given in Foster Care 26.02.2021 to the second and third petitioners and from that day onwards, the said couple has been bringing up the said child as their own, bestowing the parental affection. The second and third petitioners re-named the child as Isaimalar. The second and third petitioners submit that they have signed the Child Study Report and medical examination Report pertaining to the above named minor child and decided to adopt the above named minor child. All the relevant papers pertaining to the second and third petitioners, viz., Income Certificate, Marriage Certificate to adopt are filed along with the petition. The second and third petitioners are presently residing at No.203/81, Thamarai Nagar, Sathiram M.Pudur Post, Thottiyam, M.Pudur, Tiruchirapalli 621 203.

(i) The second and third petitioners further stated that no guardian of person or the property of the minor female child above named, has been appointed by any Court and that no application has been made any time to



this Court or in any other Court with regard to the adoption of the minor child above named. The minor female child above named has no property.

(j) The prospective adoptive parents have undertaken to submit post-adoption follow up to ascertain the progress and well-being of the child in the adoptive family, as envisaged under Section 59(11) of the Juvenile Justice Act. The petitioners 2 and 3 have also undertaken to up-bring the above named minor child Nakshatra, now known as Isaimalar as their own child and to accord the same status/rights/privileges to the child above named at par with the natural born child.

(k) The conditions laid down in Section 61(1) of the Juvenile Justice Act have been complied with in this adoption case.

(l) The givers and takers have no interest directly or indirectly adverse to that of the minor child.

(m) The above named minor child is residing within the legal jurisdiction of this Court and hence, this Court has jurisdiction to pass Adoption Order as per the provisions of Sections 2(23), 59(7) and 61 of the Juvenile Justice Act.

(n) The second and third petitioners understand that the adopted child shall become their lawful child with all rights, privileges and responsibilities that are attached to a biological child.

(o) The second and third petitioners have not filed any other



application for adoption of the above named minor child Nakshatra, now known as Isaimalar in any other Court of Law.

(p) The petitioners 2 and 3 may be granted permission to adopt the minor female child above named.

(q) The petitioners 2 and 3 are fit and proper persons to adopt the minor female child Nakshatra, now known as Isaimalar. If the petitioners 2 and 3 are granted permission to adopt the minor female child Nakshatra, now known as Isaimalar, the same would be in the interest and welfare of minor child and the petitioners 2 and 3 may be permitted to take the minor child outside India and that necessary travel documents have to be obtained for taking the minor female child outside India.

(r) Hence, the petitioners 2 and 3 pray this Court to grant leave to the petitioners 2 and 3 to take custody of female minor child Nakshatra (now known as Isaimalar) whose date of birth is 06.10.2020 and taken the child for being adopted, fostered, brought up and maintained by Mr.A.S.Suresh Kumar and Mrs.A.Uthariamary, presently residing at No.203/81, Thamarai Nagar, Sathiram M.Puthur Post, Thottiyam, M.Pudur, Tiruchirapalli-621 203.

(s) Hence, the petitioners have filed the present O.P. for the reliefs stated supra.



3. The second petitioner-A.S.Suresh Kumar was examined as P.W.1 and marked Exs.P-1 to P-16. Ex.P-1 is the original Deed of Surrender, dated 16.10.2020; Ex.P-2 is the original order dated 20.10.2020 passed by the Child Welfare Committee, Tiruvallur; Ex.P-3 is the original Certificate dated 11.01.2021 given by the Child Welfare Committee, Tiruvallur; Ex.P-4 is the computer generated registration acknowledgement letter, dated 07.04.2018; Ex.P-5 is the original Home Study Report, dated 04.07.2018; Ex.P-6 is the original Child Study Report, dated 09.01.2021; Ex.P-7 is the original Medical Examination Report of the child, dated 09.01.2021; Ex.P-8 is the original Pre-Adoption Fostercare undertaking affidavit, dated 26.02.2021; Ex.P-9 is the on-line Certificate of Marriage, dated 26.07.2021; Ex.P-10 (series two numbers) are the original Medical Certificates of the petitioners 2 and 3; Ex.P-11 is the computer generated Income Certificate, dated 19.02.2021 in respect of the second petitioner along with a copy of Income Tax Return acknowledgement for the assessment year 2019-20; Ex.P-12 (series two numbers) are the photographs of the Aadhar Cards of the second and third petitioners; Ex.P-13 (series two numbers) are the photocopies of the Pan cards of the petitioners 2 and 3; Ex.P-14 (series two numbers) are the photocopies of Secondary School Leaving Certificates of the petitioners 2 and 3; Ex.P-15



Ex.P-16 is the photograph of the minor child Isaimalar along with compact disc.

4. The Trustee of the Varshini Illam Trust was examined as P.W.2 and marked Exs.P-17 to P-20. Ex.P-17 is the photocopy of the Trust Deed, dated 09.04.2014; Ex.P-18 is the affidavit given by him in his capacity as the Trustee of the first petitioner-Trust; Ex.P-19 is the photocopy of the letter dated 23.12.2016 addressed to the first petitioner Trust by the Social Welfare and Nutritious Meal Programme Department, Government of Tamil Nadu, along with a photocopy of the Certificate of Recognition, and Ex.P-20 is the photocopy of the letter dated 04.08.2020 sent to the first petitioner-Trust by the Department of Social Defence, Government of Tamil Nadu.

5. The evidence of P.W.1 and P.W.2 and Exs.P-1 to P-20 show that the petitioners 2 and 3 are entitled to get the relief as prayed for in this petition. Hence, the Original Petition is ordered as prayed for, subject to the following conditions:

(i) The petitioners 2 and 3 are hereby appointed as natural guardians/parents of the minor child Nakshatra, now known as Isaimalar, whose date of birth is 06.10.2020, and they are hereby declared as the



adoptive parents for the person of the said minor child and the petitioners 2 and 3 are permitted to take the said minor child to the country of their residence for up-bringing the child as their own child with the legal status of a biological child with all the rights of succession and inheritance.

(ii) The Birth Certificate issuing Authority is directed to issue Birth Certificate for the said minor child, within five working days from the date of application thereof, as per the provisions of sub-regulation (5) of Regulation 18 and Regulation 36 of the CARA Regulations.

Sd./-V.P.N.J.

02/08/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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