



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 20th DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P. No.577 of 2021

In the matter of the Juvenile Justice
Act

and

In the matter of minor
M.Mohammad Yahya (male) date
of Birth 24.03.2021.

1.Mr.Mohammad Zakareeya

2.Mrs.Waseemunisa

both residing at No.26/B, Block 5th Main Road,
Ponnamanmedu, Thanigachalam Nagar,
Chennai-600 110.

.. Petitioners 1 & 2 / Adoptive Parents

3.Mr.S.Mohamed Iliyas,

4.Mrs.R.Thahaseen Fathima,

residing at No.10/11A, 4th Street, Mandhaveli,
Madhavaram, Thiruvallur,
Tamil Nadu 600 060.

.. Petitioners 3 & 4/ Biological parents

Original Petition praying that this Hon'ble Court be pleased to grant
leave to the petitioner to take custody of Male minor child M.Mohammad
Yahya whose Date of Birth is 24.03.2021 and take the child for being
adopte, fostered, brought up and maintained by Mr.Mohammad Zakareeya



Main Road, Ponniaman Medu, Thanigachalam Nagar, Chennai 600 110.

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(a) that the 1st and 2nd petitioners 1.Mr.Mohammad Zakareeya and the 2nd petitioner Mrs.Waseemunisa, residing at No.26/B, Block 5th Main Road, Ponniaman Medu, Thanigachalam Nagar, Chennai-600 110, be appointed as parents of the person of the minor male child M.Mohammad Yahya, whose Date of Birth is 24/03/2021, that the said minor may be entitled to the legal status of a biological child with all the rights of succession and inheritance and for all purpose allowed in law;

(b) that the 1st and 2nd petitioners be permitted to take physical custody of male minor child M.Mohammad Yahya whose Date of Birth is 24/03/2021 for being adopted, brought up and maintained by them;

(c) that the Birth Certificate issuing Authority may be directed to issue Birth Certificate with the 1st and 2nd petitioners as parents along with the name of the child within five working days from the date of application, as per the provisions of Regulation 36 of the Regulations of CARA .

This original petition coming on this day before this court for hearing in the presence of Mrs.Jayasudha Suryanarayanan, advocate for the petitioners herein and upon reading the petition together with the



Declaration of Willingness of Mr.Mohammad Zakareeya and Mrs.Waseemunisa, the 1st and 2nd petitioners herein, accepting to be the adoptive parents of the minor above named, and the other exhibits therein referred to and upon perusing the evidence adduced therein,
it is ordered as follows:-

That 1. Mr.Mohammad Zakareeya 2.Mrs.Waseemunisa, the petitioners 1 & 2 herein, both are presently residing at No.26/B, Block 5th Main Road, Ponniamanmedu, Thanigachalam Nagar, Chennai-600 110 be and are hereby appointed as natural guardians/parents of the minor male child M.Mohammad Yahya, whose date of birth is 24.03.2021.

2. That the petitioners 1 & 2 herein be and are hereby declared as the adoptive parents for the person of the said minor child.

3. That the petitioners 1 and 2 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.

4. That the Birth Certificate Issuing Authority be and 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-regulations (5) of the Regulations 18 and Regulation 36 of the CARA Regulations.

(Annexure)

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
20th DAY OF OCTOBER 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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19.11.2021

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O.P. No.577 of 2021

ORDER :-

Dated: 20.10.2021

THE HON'BLE MR.JUSTICE
V.PARTHIBAN

FOR APPROVAL: 22.11.2021

APPROVED ON: 23.11.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.10.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Petition No.577 of 2021

1.Mr.Mohammad Zakareeya

2.Mrs.Waseemunisa

both residing at No.26/B, Block 5th Main Road,
Ponnamanmedu, Thanigachalam Nagar,
Chennai-600 110.

.. Petitioners / Adoptive Parents

3.Mr.S.Mohamed Iliyas,

4.Mrs.R.Thahaseen Fathima,
residing at No.10/11A, 4th Street, Mandaveli,
Madhavaram, Thiruvallur,
Tamil Nadu 600 060.

.. Petitioners / Biological

Original Petition (O.P) filed under Section 56(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with Regulations 51 and 55 of the Adoption Regulations and read with Clause 17 of Letters Patent.

For petitioners : M/s.Jayasudha Suryanarayanan

ORDER

This Original Petition is filed under Section 56(2) of the Juvenile

Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with

Regulations 51 and 55 of the Adoption Regulations and read with Clause 17



of Letters Patent, praying for the following reliefs:

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(a) that the 1st and 2nd petitioners 1.Mr.Mohammad Zakareeya and the 2nd petitioner Mrs.Waseemunisa, residing at No.26/B, Block 5th Main Road, Ponniaman Medu, Thanigachalam Nagar, Chennai-600 110, be appointed as parents of the person of the minor male child M.Mohammad Yahya, whose Date of Birth is 24/03/2021, that the said minor may be entitled to the legal status of a biological child with all the rights of succession and inheritance and for all purpose allowed in law;

(b) that the 1st and 2nd petitioners be permitted to take physical custody of male minor child M.Mohammad Yahya whose Date of Birth is 24/03/2021 for being adopted, brought up and maintained by them;

(c) that the Birth Certificate issuing Authority may be directed to issue Birth Certificate with the 1st and 2nd petitioners as parents along with the name of the child within five working days from the date of application, as per the provisions of Regulation 36 of the Regulations of CARA and

(d) pass such further orders as this Court may deem fit and proper in the circumstances of the case.

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



Mohammad Ali, aged about 34 years and the 2nd petitioner is Mrs. Waseemunisa wife of Mr. Mohammad Zakareeya, the 2nd petitioner aged about 31 years both by religion Muslim and Both residing at No. 26/B, Block 5- Main Road, Ponniaman Medu, Thanigachalam Nagar, Chennai-600110. The 3rd and 4th petitioners are Mr. S. Mohamed Ilyas, aged about 32 years and Mrs. R. Thahaseen Fathima W/o S. Mohamed Ilyas, aged about 23 years, residing at No.10/11 A, 4th Street, Mandhaiveli, Madhavaram, Thiruvallur, Tamilnadu 600 060.

2.2. The minor child above named born on 24/03/21 to Mr.S.Mohamed Ilyas his wife Mrs. R. Thahaseen Fathima 3rd and 4th petitioners herein. The biological parents of the above mentioned child who are related to the 1st and 2nd petitioners, the biological Mother of the Minor child is Sister of the 2nd petitioner herein. The biological parents who are the 3rd and 4th petitioners herein are the natural guardian of the minor child M. Mohammad Yahya and have consented to give the child in adoption to the 1st and 2nd petitioners as the 1st and 2nd petitioners will not be able to have a biological child. The 3rd and 4th petitioners have a son by name Mohamed Izyan, aged 3 years and 8 months and Mohammad Yahya aged 4

month old



2.3. The first petitioner and the second petitioner are residing at 26/B,

Block 5th Main road, Ponnamman Medu, Tiruvallur, Tamilnadu - 600 10.

The date of birth of the 1st petitioner is 36/09/1987 and that of the 2nd petitioner is 04/01/1990. They got married on 31/05/2009. They do not have biological child and now the 1st and 2nd petitioners have decided and wanted to adopt the above said Minor child M. Mohammad Yahya. They believe that they have much to offer a child, including their home, love and ability to financially care for a child. The 1st petitioner is working as a Senior Engineer drawing a Salary of Rs. 10.23 lakhs P.A. and 2nd petitioner is housewife, the financial position of the couple is good.

3.4. The natural parent have given their consent under Schedule XIX and consent to the proposed adoption by way of declaration which are annexed with this original petition and the 1st and 2nd petitioners have filed their declaration of willingness to adopt the child.

3.5. The proposed adoption of the child by the 1st and 2nd petitioners from the natural parent would be in the paramount welfare of the child and the 1st and 2nd petitioners would treat the child as their own biological child with all rights and responsibilities. That neither the parties have given nor agreed to give, nor have the natural parents or guardians of the child



received or agreed to receive any payment or reward in consideration of the adoption.

3.6. The 1st and 2nd petitioners submit that no guardian of person or the property of the minor male child above named has been appointed by any Court and that no application has been made any time to this Hon'ble Court or in any other Courts with regard to the adoption of the minor child above named. The minor male child above named has no property.

3.7. The consent(s) as required for adoption in schedule XIX of the Adoption Regulations are annexed with the application.

3.8. The conditions laid down in Section 61(1) of the Juvenile Justice Act (2 of 2016) have been complied with in this adoption case.

3.9. The givers and takers have no interest directly or indirectly adverse to that of the child.

3.10. The above named minor child is residing within the legal jurisdiction of this Hon'ble Court and Hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of the Sub

Sections 2 of Section 56, read with Sub Section (1) of Section 112 of the Juvenile Justice Act (2 of 2016).



3.11. The 1st and 2nd petitioners understand that by the proposed adoption child shall become their lawful child with all the rights, privileges and responsibilities that are attached to a biological child. The prescribed Court Fees have been paid and affixed on this petition.

3.12. It is therefore necessary to grant permission to the 1st and 2nd petitioners to adopt the minor male child above named. The 1st and 2nd petitioners are fit and proper persons to adopt the minor male child M.Mohammad Yahya, If the 1st and 2nd petitioners are granted permission to adopt the minor male child M. Mohammad Yahya, the same would be in the interest and welfare of minor child and the and 2nd petitioners may be permitted to take the minor child outside India when required. In such circumstances, necessary travel documents have to be obtained for taking the minor Male child outside India. The 1st and 2nd petitioners undertake to do the necessary submissions to CARA as post adoption procedure and complete all legal formalities.

3.13. It is therefore prayed that this Hon'ble Court may be pleased to grant leave to the petitioner to take custody of Male minor child M. Mohammad Yahya whose Date of Birth is 24/03/2021 and take the child for being adopted, fostered, brought up and maintained by Mr. Mohammad



Zakareeya and the 2nd petitioner is Mrs. Waseemunisa, residing at No. 26/B, Block 5th Main Road, Ponniaman Medu, Thanigachalam Nagar, Chennai - 600 110.

3.14. Hence, the petitioners have filed the present O.P. for the reliefs stated supra.

3. The first petitioner – Mr.Mohammad Zakareeya was examined as PW1 and marked Exs.P1 to P11. Ex.P1 is the photocopy of the Marriage Certificate dated 14.09.2018 in respect of the petitioners 1 and 2 (Marked after comparing and verifying with the original). Ex.P2 is the computer generated birth certificate of the child M.Mohammad Yahya, who was born on 24.03.2021. Ex.P3 (series 2 Nos.) are the photocopies of the passports of the adoptive parents (petitioners 1 and 2) bearing Nos.J6622208 and S0767625 respectively (Marked after comparing and verifying with the original). Ex.P4 is the original Consent given under Schedule XIX. Ex.P5 is the payslip of the 1st petitioner for the month of June 2021. Ex.P6 (series 2 Nos.) are the photocopies of the Aadhaar cards of the adoptive parents (petitioners 1 and 2) (Marked after comparing and verifying with the original). Ex.P7 is the original Home Study Report dated 27.07.2021.

Ex.P8 (series 2 Nos) are the original Medical Fitness Certificates both dated 27.07.2021 in respect of the adoptive parents (petitioners 1 and 2). Ex.P9 is



the joint declaration of willingness given by the petitioners 1 and 2. Ex.P10 is the printout showing details of the application submitted to the Central Adoption Resource Authority. Ex.P11 is the photograph of the child M.Mohammad Yahya along with compact disc.

4. The third petitioner – Mr.S.Mohamed Iliyas was examined as P.W.2 and marked Exs.P-12 & P-13. Ex.P12 is the joint consent affidavit given by the biological parents (petitioners 3 and 4). Ex.P13 (series 2 Nos.) are the photocopies of the Aadhaar cards of the petitioners 3 and 4 (Marked after comparing and verifying with the original).

5. The evidence of PW1 and PW2 and Exs.P-1 to P-13 show that the petitioners 1 and 2 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 1 and 2 are hereby appointed as natural guardians/parents of the minor male child M.Mohammad Yahya, whose date of birth is 24.03.2021, and they are hereby declared as the adoptive parents for the person of the said minor child and the petitioners 1 and 2 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.
20/10/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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