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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 3rd DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.657 of 2021

In the matter of the Juvenile Justice
Act

and

In the matter of minor Female
Keerthiga Sree, Date of Birth
14.11.2019

1. Bala Mandir Kamaraj Trust, rep by its
Power Agent and Social Worker Ms.Chitra Krishnan,
No.8, G.N.Chetty Road, T.Nagar, Chennai 600 017.

2. Mr.Josef Mifsud

3. Mrs.Moira Mifsud
Residing at Paradise House
Scrug Street, Xaghra,
Gozo, Malta
represented by their Power of
Attorney Holder Ms.Chitra Krishnan

.. Petitioners

Original Petition praying that this Hon'ble Court be pleased to grant
leave to the 2nd and 3rd petitioner to take custody of Female minor child
Keerthiga Sree whose Date of Birth is 14.11.2019 and take the child
outside India for being adopted, fostered, brought up and maintained by the



Mr. Josef Mifsud, both residing at Paradise House Scrug Street, Xaghra, Gozo, Malta.

(a) that the 2nd and 3rd petitioners Mr. Josef Mifsud and Mrs. Moira Mifsud W/o. Mr. Josef Mifsud, both residing at Paradise House Scrug Street, Xaghra, Gozo, Malta be appointed as parents of the minor Female child Keerthiga Sree whose Date of birth is 14.11.2019.

b) that the prospective adoptive parents be declared as parents of the person of the said child for all purposes allowed by the law and may be allowed to be take the 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;

c) that the Birth Certificate Issuing Authority be directed to issue birth certificate for Child Keerthiga Sree 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.

d) the Regional Passport Office concerned be directed to issue passport for the said child within 10 days from the date of application, as per sub-regulations (4) of the regulations 18 and regulation 38 of CARA Regulations;



hearing in the presence of M/s.Jayasudha Suryanarayanan, Advocate for the petitioners herein and upon reading the petition together with the Declaration of Willingness of Mr.Josef Mifsud and Mrs.Moira Mifsud, 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 the evidence adduced therein

it is ordered as follows:-

That Mr.Josef Mifsud and Mrs.Moira Mifsud, the petitioners 2 & 3 herein, both are residing at Paradise House Scrug Street, Xaghra, Gozo, Malta be and are hereby appointed as parents of the minor female child, Keerthiga Sree whose Date of Birth is 14.11.2019.

2. That Mr.Josef Mifsud and Mrs.Moira Mifsud petitioners/Prospective Adoptive parents herein, be and are hereby declared as the parents of the said child Keerthiga Sree for all purposes allowed by the law and they are allowed to take the 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 be and is hereby directed to issue birth certificate for Child Keerthiga Sree 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;

4. That the Regional Passport Office concerned be and is hereby directed to issue passport for the said child within 10 days from the date of application, as per Sub-Regulations(4) of the Regulations 18 and Regulation 38 of CARA Regulations.

5. That the petitioners 2 and 3 herein be and are hereby permitted to take the custody of the minor male child Keerthiga Sree for being adopted, fostered, brought up and maintained by them in Gozo, Malta.

6. That the petitioners 2 and 3 herein be and are hereby also permitted to take the child out of India for being brought up by them in Gozo, Malta.

7. That the petitioners 2 and 3 herein shall submit periodical reports regarding the welfare of the child at the intervals of three months in the first two years, and at the intervals of six months during the succeeding three



years to the Court.

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8. That the minor child Keerthiga Sree shall be adopted by the petitioners 2 and 3 in accordance with the local laws in Gozo, Malta, within a period of one year from the date of this order.

9. That there shall be no costs of this petition.

(Annexure)

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 03rd DAY OF DECEMBER 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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20.11.2021

O.P. No.657 of 2021

ORDER :-

Dated: 03.12.2021

THE HON'BLE MR.JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 24.01.2022

APPROVED ON: 25.01.2022

Copy to:

1. The Secretary, Central Adoption Resource Agency, Ministry of Women & Child Dept, West Block VIII, Wing No.1, Second Floor, R.K.Puram, New Delhi.
2. The Secretary, Government of Tamil Nadu, Department of Social Welfare, (Dealing with Child Adoption), Fort St. George, Chennai-600 009.
3. The Directorate of Social Welfare dealing with Child adoption (Behind Old Engineering Building) Chepauk, Chennai 600 005.
4. The Secretary, Bala Mandir Kamaraj Trust, No.8, G.N.Chetty Road, T.Nagar, Chennai – 600 017.
5. The Regional Passport Officer, Shastri Bhavan, Chennai-600 006.



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2. Mr.Josef Mifsud

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Original Petition praying that this Hon'ble Court be pleased to grant
leave to the 2nd and 3rd petitioner to take custody of Female minor child
Keerthiga Sree whose Date of Birth is 14.11.2019 and take the child
outside India for being adopted, fostered, brought up and maintained by the
2nd and 3rd petitioners Mr.Josef Mifsud and Mrs.Moira Mifsud W/o.



Mr. Josef Mifsud, both residing at Paradise House Scrug Street, Xaghra, Gozo, Malta.

(a) that the 2nd and 3rd petitioners Mr. Josef Mifsud and Mrs. Moira Mifsud W/o. Mr. Josef Mifsud, both residing at Paradise House Scrug Street, Xaghra, Gozo, Malta be appointed as parents of the minor Female child Keerthiga Sree whose Date of birth is 14.11.2019.

b) that the prospective adoptive parents be declared as parents of the person of the said child for all purposes allowed by the law and may be allowed to be take the 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;

c) that the Birth Certificate Issuing Authority be directed to issue birth certificate for Child Keerthiga Sree 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.

d) the Regional Passport Office concerned be directed to issue passport for the said child within 10 days from the date of application, as per sub-regulations (4) of the regulations 18 and regulation 38 of CARA Regulations;



hearing the Court made the following orders:-

This petition has been filed under Section 56(4) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with Regulations 12(2) and 17(1) of the Adoption Regulations.

2. The first petitioner is a recognized specialized Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) and hereinafter referred to as “Act” by the State Government of TamilNadu for rehabilitating orphans, abandoned and surrendered children through adoption in accordance with the provision of the Act and its Regulations.

3. Central Adoption Resource Authority (CARA), has issued notice on 18.05.2016 to all Specialized Adoption Agencies that they can file a petition in Court. The first petitioner, being Specialized Adoption Agency, has been permitted by CARA in the 'No Objection Certificate' dated 31.03.2019 to do Inter Country Adoption. The Inter Country Adoption licence granted to the first petitioner institution by the Government of TamilNadu has been renewed on 29.04.2019 and the period of validity of the Certificate is five years from 31.12.2018 to 29.12.2023.



4. The first petitioner, which is a registered Child Care Institution, is having the care and custody of the minor child Keerthiga Sree, having date of birth as 14.11.2019.

5. According to the first petitioner, the minor child Keerthiga Sree was an abandoned child and handed over to the first petitioner on 05.03.2020 by the Child Welfare Committee. The said child was transferred to Adoption unit for further rehabilitation on 24.11.2020. The said child was declared as abandoned and free for adoption by the Child Welfare Committee, Chennai by its order dated 23.02.2021. According to the first petitioner, the child is now about two years.

6. The second petitioner is a citizen of Gozo, Malta, holding passport No.1208409 and the third petitioner is the citizen of Gozo, Malta, holding Passport No.1208371. The date of birth of second petitioner is 25.12.1982 and that of the third petitioner is 07.10.1983. They got married on 25.08.2007.

7. According to the first petitioner, the second and third petitioners do not have a biological / adopted child and they wanted to adopt a child from



have the financial means to take care of the child to be adopted by them. In the petition filed in support of the O.P. No.657 of 2021, the petitioners have also disclosed the annual income of the second petitioner and the third petitioner and have stated that the said annual income is adequate to maintain the minor child to be adopted by them. The details of the second and third petitioner's employment is also furnished in the petition. According to the petitioners, the adoptive parents viz., the second and third petitioners have complied with all the statutory requirements for the purpose of adopting a child from India. In such circumstances, they have sought for a direction from this Court to declare the second and third petitioners as parents of the child Keerthiga Sree.

8. Before the learned Master, the first petitioner's power of attorney holder, Ms.Chitra Krishnan was examined as P.W.1. She has deposed on behalf of all the petitioners and in her deposition, she has reiterated the contents of the petition filed in support of O.P. No.657 of 2021.

9. Before the learned Master, the following documents were filed

<https://hcservices.ecourts.gov.in/hcservices/>

which were marked as Exhibits:



<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Photocopy of the Power of Attorney from the SAA dated 19.08.2015
Ex.P-2	Photocopy of the General Power of Attorney dated 17.10.2018 executed by the petitioners 2 and 3 in favour of the petitioners.
Ex.P-3	Photocopy of the Certificate of Recognition by State Government dated 29.04.2019.
Ex.P-4	Photocopy of the custody of the child dated 05.03.2020.
Ex.P-5	Photocopy of the Transfer letter of the child dated 24.11.2020.
Ex.P-6	Photocopy of the certificate of CWC clearance dated 23.02.2021.
Ex.P-7	Original Child Study Report dated 29.05.2020
Ex.P-8	Original Medical Examination Report of the petitioners 2 and 3 dated 29.05.2021.
Ex.P-9	Photocopy of the No Objection Certificate from CARA dated 11.06.2021.
Ex.P-10	Original Home Study Report of the 2 nd and 3 rd petitioners dated 07.05.2018
Ex.P-11	Notorized copy of the certificate of marriage took place on 25.08.2007.
Ex.P-12	Notorized copies of the certificate of Medical Fitnesses of the 2 nd and 3 rd petitioners.
Ex.P-13	Notorized copies of the financial statement /proof of income of the 2 nd and 3 rd petitioners
Ex.P-14	Original adoptive parents police clearance dated 11.05.2021.
Ex.P-15	Original letter of consent and declaration of willingness given by the adoptive parents
Ex.P-16	Notorized copies of the passports of the adoptive parents
Ex.P-17	Original undertaking by Sponsoring Agency dated 14.11.2019
Ex.P-18	Photograph of the minor Keerthiga Sree along with compact disc



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10 As seen from the evidence available on record, the first petitioner is a recognized Specialized Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act 2015 (2 of 2016) by the State Government of TamilNadu for rehabilitating orphans, abandoned and surrendered children through adoption. CARA has also permitted the first petitioner to file a petition in Court seeking permission of this Court for Inter Country Adoption. The Inter Country Adoption licence granted by the Government of TamilNadu to the first petitioner-institution is also valid up to 29.12.2023. Only during the period of licence, they have filed this petition.

11. It is evident that the child, Keerthiga Sree, is an abandoned child born on 14.11.2019 and handed over to the first petitioner on 05.03.2020 by the Child Welfare Committee. The child was also declared as abandoned and free for adoption by the Child Welfare Committee, Chennai by its order dated 23.02.2021. The Child is presently two years old.

12. As seen from the evidence available on record, the second and

third petitioners, who are the adoptive parents, are citizens of Gozo, Malta



and they have their passports, which has also been marked as Exhibit-P16 before the learned Master. The date of birth of the second petitioner is 25.12.1982 and the third petitioner is 07.10.1983 as seen from the evidence available on record. It is seen that the second and third petitioners got married on 25.08.2007 and they do not have biological/ adopted child.

13. The second petitioner is working in a Construction Company named C.Mifsud Construction Limited and earning a gross annual salary of 14512 Euros which is equivalent to Indian Currency about Rs.12,55,832.62 as on 07.06.2021 and the third petitioner is also employed with Agri & Pets Suppliers Ltd and earning a gross annual salary of 5812 Euros which is equivalent to Indian Currency about Rs.5,02,905/- as on 07.06.2021. As seen from the financial statements produced by the second and third petitioners, which has been marked as Exhibit-P13 before the learned Master, it is clear that they have got financial means to support and maintain the child all through their lifetime.

14. The Child Study Report and the Medical Examination Report have also been filed, which have been marked as Ex.P7 and Ex.P8 respectively before the learned Master. The child, even though being a special child, the second and third petitioners have agreed for adopting her by signing the declaration form, which has been marked as Exhibit-P15

before the learned Master. The Medical Examination Report of the



petitioners 2 and 3, who are the adoptive parents, has also been marked as Exhibit-P8 to prove that the adoptive parents are medically fit and they are healthy enough to adopt the child.

15. The mandatory procedure required for Inter Country Adoption has been duly complied with by the petitioners, as seen from the evidence available on record. The statutory requirements under the Juvenile Justice (Care and Protection of Children) Act 2015 (2 of 2016) as well as the judgment of the Hon'ble Supreme Court in the case of **LAKSHMI KANT PANDEY -Vs- UNION OF INDIA**, reported in CDJ Law Journal 1984 SC 343 has been duly complied with by the petitioners.

16. For the foregoing reasons, this Court is inclined to grant the reliefs prayed for in the petition filed in support of O.P. No.657 of 2021. Accordingly, the following reliefs are granted;

(a) The second and third petitioners Mr.Josef Mifsud and Mrs.Moira Mifsud wife of Mr.Josef Mifsud, both residing at Paradise House Scrug Street, Xaghra, Gozo, Malta are appointed as parents of the minor female child, Keerthiga Sree whose Date of Birth is 14.11.2019.

(b) The prospective adoptive parents, viz., Mr.Josef Mifsud and Mrs.Moira Mifsud are declared as parents of the said child, Keerthiga Sree for all purposes allowed by the law and they are allowed to take the 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;

(b) The Birth Certificate Issuing Authority is directed to issue birth certificate for Child Keerthiga Sree 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;

(c) The Regional Passport Office concerned is directed to issue passport for the said child within 10 days from the date of application, as per Sub-Regulations(4) of the Regulations 18 and Regulation 38 of CARA Regulations.

16. Accordingly, O.P. No.657 of 2021 is allowed. No costs.

Sd./-A.Q.J
03/12/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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