



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.658 of 2021

In the matter of the Juvenile Justice
Act

and

In the matter of minor Female
Malini, Date of Birth 04.07.2019

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.Nagendra Raina

3. Mrs.Susan Michele Raina
Residing at 4994 Strickler Road,
Clarence, New York 14031, USA
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
Malini whose Date of Birth is 04.07.2019 and take the child outside India
for being adopted, fostered, brought up and maintained by the 2nd and 3rd

petitioners Mr.Nagendra Raina and Mrs.Susan Michele Raina both
residing at 4994 Strickler Road, Clarence, New York



14031, USA.

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(a) that the 2nd and 3rd petitioners Mr.Nagendra Raina and Mrs.Susan Michele Raina W/o.Mr.Nagendra Raina, both residing at 4994 Strickler Road, Clarence, New York 14031, USA be appointed as parents of the minor Female child Malini whose Date of birth is 04.07.2019.

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 Malini 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;

This Original Petition coming on this day before this Court for



petitioners herein and upon reading the petition together with the Declaration of Willingness of Mr.Nagendra Raina and Mrs.Susan Michele Raina, 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.Nagendra Raina and Mrs.Susan Michele Raina, the petitioners 2 & 3 herein, both are residing at 4994 Strickler Road, Clarence, New York 14031, USA be and are hereby appointed as parents of the minor female child, Malini whose Date of Birth is 04.07.2019.

2. That Mr.Nagendra Raina and Mrs.Susan Michele Raina petitioners/Adoptive parents herein, be and are hereby declared as the parents of the said child Malini 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 Malini 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 child Malini for being adopted, fostered, brought up and maintained by them in New York, U.S.A.

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 New York, U.S.A.

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.



8. That the minor child Malini shall be adopted by the petitioners 2 and 3 in accordance with the local laws in New York, U.S.A, 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.)

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05.01.2022

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O.P. No.658 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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petitioners Mr.Nagendra Raina and Mrs.Susan Michele Raina W/o.



14031, USA.

WEB COPY

(a) that the 2nd and 3rd petitioners Mr.Nagendra Raina and Mrs.Susan Michele Raina W/o.Mr.Nagendra Raina, both residing at 4994 Strickler Road, Clarence, New York 14031, USA be appointed as parents of the minor Female child Malini whose Date of birth is 04.07.2019.

b) that the prospective adoptive parents may please 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 Malini 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;

This Original Petition Coming on this day before this court for



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) 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 Malini, having date of birth as 04.07.2019.

5. According to the first petitioner, the minor child Malini was surrendered by her biological mother to the first petitioner on 10.07.2019. The said child was declared as abandoned and legally free for adoption by the Child Welfare Committee, Chennai by its order dated 18.10.2019. According to the first petitioner, the child is now about two years and four months old.

6. The second petitioner is a citizen of U.S.A, holding passport No.509585479 and the third petitioner is the citizen of U.S.A, holding Passport No.556257168. The date of birth of second petitioner is 09.07.1979 and that of the third petitioner is 21.09.1984. They got married on 10.09.2009.

7. According to the first petitioner, the second and third petitioners have two biological sons, by name, Viren Sharbel Raina, having date of birth as 03.10.2015 and Saagar Sharbel Raina, having date of birth as 19.11.2016 and they wanted to adopt a girl child from India. According to the first petitioner, the second and the third petitioners 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.658 of 2021, the petitioners have also disclosed the annual income of the second 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 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 Malini.

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.658 of 2021.

9. Before the learned Master, the following documents were filed which were marked as Exhibits:.

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Photocopy of the Power of Attorney dated 19.08.2015.
Ex.P-2	Photocopy of the General Power of Attorney dated 27.07.2021 executed by the 2 nd and 3 rd petitioners in



<i>Exhibits</i>	<i>Nature of the document</i>
	favour of the petitioners.
Ex.P-3	Photocopy of the Certificate of Recognition given by Government of Tamil Nadu dated 29.04.2019.
Ex.P-4	Original Child Surrender document dated 10.07.2019.
Ex.P-5	Photocopy of the Certificate of the Child Welfare Committee, Chennai dated 18.10.2019.
Ex.P-6	Original Child Study Report dated 03.09.2020, duly apostilled.
Ex.P-7	Original Medical Examination Report dated 27.07.2021, duly apostilled.
Ex.P-8	Photocopy of the No Objection Certificate issued by Central Adoption Resource Authority dated 17.06.2021.
Ex.P-9	Original Home Study Report dated 27.07.2021.
Ex.P-10	True copy of the Certificate of Marriage for the marriage took place between the petitioners 2 and 3 on 10.09.2009, duly apostilled.
Ex.P-11	Certificates of the Medical Fitness of the petitioners 2 and 3 as received from the foreign country, duly apostilled.
Ex.P-12	Original employment letter dated 28.07.2021 in respect of the 2 nd petitioner Mr.Nagendra Raina, duly apostilled.
Ex.P-13	Police Clearance Certificates both dated 03.06.2021, as received from the foreign country, duly apostilled.
Ex.P-14	Original joint declaration of willingness given by petitioners 2 and 3 dated 27.07.2021, duly apostilled.
Ex.P-15	Original birth certificates of petitioners 2 and 3 duly apostilled.
Ex.P-16	Original letter of undertaking given by the sponsoring agency dated 05.02.2021, duly apostilled.
Ex.P-17	Photograph of minor child Malini along with compact disc.



petitioner is a recognized Specialized Adoption Agency under Section 65 of the Act 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, Malini, is a surrendered child, born on 04.07.2019 and handed over by her biological mother to the first petitioner on 10.07.2019. The child was also declared as abandoned and legally free for adoption by the Child Welfare Committee, Chennai by its order dated 18.10.2019. The Child is presently two years and four months old.

12. As seen from the evidence available on record, the second and third petitioners, who are the adoptive parents, are citizens of U.S.A and they are U.S. Passport holders. The date of birth of the second petitioner is 09.07.1979 and the third petitioner is 21.09.1984 as seen from the evidence available on record. It is seen that the second and third petitioners got



Sharbel Raina, having date of birth as 03.10.2015 and Saagar Sharbel Raine having date of birth as 19.11.2016 and they wanted to adopt a girl child from India

13. The second petitioner is working as CEO in Buffalo Games and Puzzles and earning a gross annual salary of 4,16,160/- Dollars, which is equivalent to Indian Currency about Rs.3,07,17,060.91 as on 28.07.2021 and the third petitioner is a home maker. As seen from the Original Employment Letter dated 28.07.2021, which has been marked as Ex.P12 before the learned Master, the second petitioner is employed with Buffalo Games and Puzzles in U.S.A and earning 4,16,160/- Dollars as his annual income. As seen from the evidence available on record, it is clear that the second and third petitioners 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.P6 and Ex.P7 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-P14

before the learned Master. The Medical Fitness Certificate of the



petitioners 2 and 3, who are the adoptive parents, has also been marked as Exhibit-P11 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.658 of 2021. Accordingly, the following reliefs are granted;

(a) The second and third petitioners Mr.Nagendra Raina and Mrs.Susan Michele Raina, W/o.Mr.Nagendra Raina, both residing at 4994, Stricler Road, Clearance, New York 14031, USA are appointed as parents of the minor female child, Malini whose Date of Birth is 04.07.2019.



(b) The prospective adoptive parents, viz., Mr.Nagendra Raina and Mrs.Susan Michele Raina are declared as parents of the said child, Malini 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 Malini 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.658 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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