

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-8204-2021(O&M)

Date of Decision: 11.06.2021

Geeta Rani and another

.... Petitioners

Vs.

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Gunjan Mehta, Advocate
for the applicants-petitioners.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Shweta Nahata, Advocate for respondents No. 1 to 3.

HARINDER SINGH SIDHU, J

Petitioners, who are the adoptive parents of Master Rudra Kumar (minor) have preferred the instant writ petition praying for issuance of necessary directions for removal of their minor son from his home country i.e. India for the purpose of visiting Australia on Tourist Visa in terms of the requirement of Respondent No. 2, the Australian High Commission.

It is stated that the petitioners have adopted the minor namely Rudra Kumar from Ms Adarsh Rani daughter of Sh Shiv Charan Dass (Natural Mother) vide a valid deed of Adoption dated 25.05.2009. He was then aged about 1 ½ years old.

They filed a petition under Section 19 (5) (ii) of the Legal Services Authorities Act, 1987 read with Regulation 21 (2) of the Haryana Legal Services Authorities (Transaction of Business and Other Provisions)

Regulation 1998, seeking a declaration that the minor child named Rudra Kumar (DOB 15.10.2007) is the adopted child of the petitioners. Based on the Deed of Adoption dated 27.05.2009 as also statements of the parties, the Ld. Lok Adalat/Samjhauta Sadan, Panchkula granted the declaration vide its order dated 19.08.2009, the operative part of which is as under:

“On the basis of a statements given by the parties, it is declared that Master Rudra Kumar, the natural child of respondent Adarsh Rani, has been taken in adoption by Nirajkumar Rajnikant Naik, petitioner no. 1 and his wife Smt. Geeta Rani, petitioner no. 2. The petitioners admit that after this adoption Rudra Kumar will have a right to inherit their property as their own natural child. Accordingly, the petition is allowed. File be consigned to the record room.

At the relevant time, the petitioners were Indian citizens. Later on they acquired the citizenship of Australia but continued to live in Panchkula. Now due to certain personal reasons, the petitioners have moved to Australia without their adopted son, who has been studying at a Boarding school in India since then. Due to outbreak of Covid-19, the Boarding school where their son was studying has been closed. Their son who is now aged about 14 years, is presently being looked after by family friends of the petitioners.

It is further the case of the petitioners that they had applied for Visitor (Tourist) Visa for Master Rudra Kumar for Australia so that the family could live together at one place. An e-mail has been received from the Australian Government, Department of Home Affairs specifying the formalities for the grant of the Visa. One requirement is an order of an Indian Court permitting the child to travel and live in Australia. The

specific requirement being:

“To satisfy above options you or someone authorised to act on your behalf will have to approach the same Family Court in India which awarded you custody of your child to seek permission to remove your child from his/her home country permanently. Kindly ensure that the order issued by the court should permit your child to travel and live in Australia with you as we will require this specific advice to be able to grant him/her a temporary visa.”

Ld. Counsel submits that in the absence of declaration as required, the child cannot be re-united with the petitioners. He states that due to the Covid -19 the Lok Adalat is not functioning and the petitioners are left with no alternative but to approach this Court for relief.

Having heard learned counsel for the parties and considering the facts of this case and the urgency of the situation, this petition is disposed of with a request to the Learned District Judge, Panchkula to place the matter before the Court of competent Jurisdiction, to pass an appropriate order in accordance with law. The petitioners may file the necessary application before the concerned Court which is requested to decide the same expeditiously preferably within a period of three weeks.

It would be open to the petitioners to move this Court for any further directions if necessary.

June 11, 2021
manoj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No