

**O.P.No. 532 of 2022****C.V.KARTHIKEYAN, J.,**

This Petition has been filed under Section 56(4) of the Juvenile Justice (Care and Protection of Children) Act, 2015 seeking appointment of the second and third petitioners Mr. Manuel Tobias Lievore and his wife Mrs. Elizabeth Quinzani, both residents and citizens of Italy and represented in this Petition by their power of attorney holder K.Sankar Raj, who incidentally is also the power of attorney holder of the first petitioner, as parents of the minor male child Pratyush, who was born on 27.11.2020.

2. A declaration had also been sought to declare that the said second and third petitioners / prospective adoptive parents are also the parents of Pratyush for all purposes in law and may also be permitted to take him to their country for bringing him up as their own child with legal status of a biological child and with appended rights of succession and inheritance.

3. A further direction is sought to issue a birth certificate by the



appropriate authorities for Pratyush within five working days from the date of an application in accordance with regulations 13 and 18(5) of the Adoption Regulations and also for a direction to the Passport Office to issue passport to Pratyush within ten working days from the date of application in accordance with regulation 18(4) and regulation 38 of the Adoption Regulations.

4. The child, Pratyush was born on 27.11.2020. He had been abandoned by his mother and had been handed over by the Child Welfare Committee, Chennai Central to the first petitioner trust / Varshini Illam Trust at Anna Nagar, Chennai and represented by its power of attorney agent K.Sankar Raj, who is a social worker. The child was declared as abandoned and free for adoption by an order dated 27.09.2021. The child, unfortunately has a depressed nose (nasal septal injury) due to prolonged nasal ventilation; absenet anterior nasal septum. Medical report in that regard had been filed as a document along with the petition. The second and third petitioners, both citizens of Italy have sought to adopt the child from India.



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5. During the course of examination of the third petitioner, she disclosed that she had also been similarly adopted from India when she was a young girl. She stated that she understands such a situation and always wanted to take in adoption another child, who requires a warm and caring home.

6. The first petitioner had registered the child as available for adoption online with CARA through AFAA, (Authorised Foreign Adoption Agency), 1 Bambini Dell Arcobaleno – Bambarco Onius in Italy. The Home Study Report had been prepared by AFAA in accordance with the guidelines of CARA. It was also done online. The second and third petitioners had agreed to adopt the child. They signed a declaration of willingness on 08.03.2022. They also signed the Child Study Report and Medical Examination report indicating acceptance to take in adoption the child and more importantly that they are aware of the medical condition of the child. This also required CARA to issue No Objection Certificate for giving in adoption, Pratyush to the second and third petitioners. They had also so issued such a No Objection Certificate.



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7. In the Petition, it had been very specifically stated that the second and third petitioners had also undertaken that they would always allow the functionaries of AFAA / Central Authority / the concerned Government Department to visit their house post adoption to follow the progress and also to enquire about the well being of Pratyush. They had also undertaken to take care of him and to bring him up as their own child and also accepted that he shall have all the rights to succeed and inherit to any estate left behind by them as their naturally born son.

8. Thereafter, K.Sankar Raj, the power of attorney agent was examined before the learned Master and he tendered evidence as PW-1. He marked the relevant documents. He marked as Ex.P-1 the Trust Deed of the first petitioner.

9. It must be stated that the first petitioner Varshiniillam Trust is a State Government recognised institution with authority to deal with incountry and also inter country adoption. It is a recognised specialised Adoption Agency as provided under Section 55 of the Juvenile Justice (Care



and Protection of Children) Act, 2015 for re-habilitation of orphaned, abandoned and surrendered children through adoption in accordance with the provisions of the said Act. They had also been issued with No Objection Certificate on 24.06.2022 to give inter country adoption of the children whom they have under their care and who have been entrusted to them by the Child Welfare Committee. The first petitioner had expressed No Objection for handing over in adoption Pratyush to the second and third petitioners.

10. During the course of evidence, the letter dated 09.03.2021 signifying handing over of custody to the first petitioner was marked as Ex.P-2 and the clearance from CWC was marked as Ex.P-5. The Child Study Report was marked as Ex.P-6. The Medical Report was marked as Ex.P-7. No Objection Certificate from CARA was marked as Ex.P-8 and the Home Study Report was marked as Ex.P-9.

11. The powers of attorney given to the witness by the first petitioner and by the second and third petitioners were marked as Exs. P-3 and P-4 respectively.



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**12.** The Marriage Certificate of the second and third petitioners and their Medical Fitness and also their Employment Service and Income Certificates were marked as Exs. P-10, P-11 to P13 and P-14 respectively.

**13.** The police authorities had also given their clearance to both the second and third petitioners and that report was marked as Exs. P-15 and P-16. The Declaration of Willingness and the undertaking given by the second and third petitioners were marked as Exs. P-17 and P-18. The undertaking given by the Counselling Agency was marked as Ex.P-19. The photo of the minor child and the photo of the adoptive parents were marked as Exs. P-20 and P-21.

**14.** These documents reflect consensus ad idem on the part of the second and third petitioners to take in adoption the minor child. Necessary documents have been issued by the concerned authorities to give in adoption the minor child Pratyush to the second and third petitioners. The documents also reflect their willingness to take him in adoption and their undertaking to look after him with due care and protection.



**WEB COPY** 15. The matter was referred back to this Court after evidence had been recorded but the Court also wanted the evidence of the second and third petitioners to be recorded.

16. Accordingly, the second and third petitioners were examined by the learned Additional Master No.III through video conference and the evidence which had been recorded was forwarded to Italy and a signed copy of the same had been received by the Registry in the Original Side of this Court.

17. The second petitioner was examined as PW-2 and the third petitioner was examined as PW-3. They both stated that they had no children of their own and that they had both independently and jointly consented to take Pratyush on adoption and that they also knew about the medical condition of the child and that they are not dependent on the Government for any concession. They have a vision for the future of the child. The evidence reveals that the adoption is voluntary and that it was with much pleasure and responsibility that the second and third petitioners



are taking Pratyush in adoption.

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**18.** Necessary applications may be filed before the concerned authorities for birth certificate and passport. I am confident that within the time period stipulated, they would be able to do the necessary needful and issue necessary certificates.

**19.** In view of the evidence presented, this Original Petition stands allowed as prayed for.

Vsg

18.11.2022



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