



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 19th DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.769 of 2021

In the matter of the Juvenile Justice Act

And

In the matter of a minor Nivedita now known as Rexina Charlet (female) Date of Birth 22.03.2021.

1. Varshini Illam Trust,
No.108, 4th Street, AH Block,
Anna Nagar, Chennai 600 040.
Represented by their authorized Person & POA
Mr.Sankar Raj Social Worker

2. Mr.A.Samson
S/o.I.Arputharaj,

3. A.Ida Scudder
No.33, Vetha Oli Street,
Samariya, Tisayanvillai,
Radhapuram, Tirunelveli
Tamilnadu 627 657.

....Petitioners

Original Petition praying that this Hon'ble Court be pleased to grant leave to the 2nd and 3rd petitioners to take permanent custody of female minor child Nivedita now known as Rexina Charlet, whose date of Birth is 22.03.2021 and take the child for being adopted, fostered, brought up and maintained by Mr.A.Samson and Mrs.A.Ida Scudder presently residing



No.33, Vedha Oli Street, Samariya, Tisayanvillai, Radhpuram, Tirunelveli,
Tamilnadu 627657.

a) that the 2nd and 3rd petitioners Mr.A.Samson and Mrs.A.Ida Scudder presently residing at No.33, Vedha Oli Street, Samariya, Tisayanvillai, Radhpuram, Tirunelveli, Tamilnadu 627657 be appointed as parents of the minor female child Nivedita now known as Rexina Charlet whose Date of birth is 22.03.2021.

b) that the prospective adoptive parents may please be declared as parents of the person of the said minor child for all purposes allowed by the law and up bring the child as their own child with the legal status of a biological child with all the rights of succession and inheritance and for all purposes permitted in law.

c) that the Birth Certificate Issuing Authority may please be directed to issue birth certificate for Child Nivedita now known Rexina Charlet within five working days from the date of application, as per the provisions of sub-regulation(5) of the regulations 18 and regulation 36 of CARA Regulations.



This original petition coming on this day before this court for hearing

in the presence of M/s.R.Jayasudha Suryanarayanan, advocate for the petitioners herein and upon reading the petition together with the Declaration of Willingness of Mr.A.Samson and A.Ida Scudder, the 2nd and 3rd 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, and this court observing that the petitioners herein are fit and proper persons to take adoption of the female child and to be the parents of the minor female child

it is ordered as follows:-

That Mr.A.Samson and A.Ida Scudder, the 2nd and 3rd petitioners herein, presently residing at No.33, Vetha Oli Street, Samariya, Tisayanvillai, Radhapuram, Tirunelveli Tamilnadu 627 657 be and are hereby appointed as adoptive parents of the minor child Nivedita also known as Rexina Charlet, whose photograph is duly attested and annexed hereto, as per section 56(1) of the Juvenile Justice (Care and Protection of Children) Act 2015 read with Section 45(2) of Juvenile Justice (Care and Protection of Children) Rules 2016 and they are permitted to bring up the child as their own child.



2. That the minor Nivedita also known Rexina Charlet shall be entitled to the legal status of a biological child of the petitioners 2 and 3 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 minor child Nivedita also known Rexina Charlet , within five working days from the date of application, as per the provisions of Regulations 36 of the Adoption Regulations of CARA.

(Annexure)

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 19th DAY OF JANUARY 2022.

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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28.01.2022

O.P. No.769 of 2021

ORDER :-

Dated: 19.01.2022

THE HON'BLE MR.JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 02.02.2022

APPROVED ON: 02.02.2022



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WEDNESDAY, THE 19th DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.769 of 2021

In the matter of the Juvenile Justice
Act

And

In the matter of a minor Nivedita
now known as Rexina Charlet
(female) Date of Birth 22.03.2021.

1. Varshini Illam Trust,
No.108, 4th Street, AH Block,
Anna Nagar, Chennai 600 040.
Represented by their authorized Person & POA
Mr.Sankar Raj Social Worker

2. Mr.A.Samson
S/o.I.Arputharaj,

3. A.Ida Scudder
No.33, Vetha Oli Street,
Samariya, Tisayanvillai,
Radhapuram, Tirunelveli
Tamilnadu 627 657.

....Petitioners

Original Petition praying that this Hon'ble Court be pleased to grant
leave to the 2nd and 3rd petitioners to take permanent custody of female
minor child Nivedita now known as Rexina Charlet, whose date of Birth is



maintained by Mr.A.Samson and Mrs.A.Ida Scudder presently residing No.33, Vedha Oli Street, Samariya, Tisayanvillai, Radhpuram, Tirunelveli, Tamilnadu 627657.

a) that the 2nd and 3rd petitioners Mr.A.Samson and Mrs.A.Ida Scudder presently residing at No.33, Vedha Oli Street, Samariya, Tisayanvillai, Radhpuram, Tirunelveli, Tamilnadu 627657 be appointed as parents of the minor female child Nivedita now known as Rexina Charlet whose Date of birth is 22.03.2021.

b) that the prospective adoptive parents may please be declared as parents of the person of the said minor child for all purposes allowed by the law and up bring the child as their own child with the legal status of a biological child with all the rights of succession and inheritance and for all purposes permitted in law.

c) that the Birth Certificate Issuing Authority may please be directed to issue birth certificate for Child Nivedita now known Rexina Charlet within five working days from the date of application, as per the provisions of sub-regulation(5) of the regulations 18 and regulation 36 of CARA



This original petition coming on this day before this court for hearing,

the Court made the following order:-

This petition has been filed under Section 56(1) of Juvenile Justice (Care and Protection of Children) Act 2015 (2 of 2016) read with Section 12(2) seeking for the following reliefs :-

a) permission to the petitioners 2 and 3 to take permanent custody of female minor child Nivedita, also known as Rexina Charlet, whose date of birth is 22.03.2021 and take the child for being adopted, fostered, brought up and maintained by them and also to appoint them as parents of the minor female child Nivedita, also known as Rexina Charlet whose date of birth is 22.03.2021;

b) the adoptive parents may be declared as parents of the person of the said minor child for all purposes allowed by the law and upbringing the child as their own child with the legal status of a biological child with all the rights of succession and inheritance and for all purposes permitted in law and

c) the birth certificate issuing authority may be directed to issue birth certificate for child Nivedita, also known as Rexina Charlet within five working days from the date of application, as per the provisions of sub-



Regulations.

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2. The 1st petitioner is a registered Child Care Institution, which is having the care and custody of the minor female child Nivedita, also known as Rexina Charlet, having date of birth as 22.03.2021.

3. The 1st petitioner is having the requisite statutory licence under the Juvenile Justice (Care and Protection of Children) Act 2015 (2 of 2016), which has been renewed periodically and even though it has got expired on 22.12.2021, learned counsel for the petitioners submits that the 1st petitioner has applied for renewal and it is being processed by the concerned statutory authorities for renewal. The petitioners 2 and 3 seek to adopt the minor child Nivedita, also known as Rexina Charlet, whose date of birth is 22.03.2021. The minor child Nivedita, also known as Rexina Charlet was abandoned on 05.04.2021, when she was just 15 days old at Mambazhapattu, Villupuram District and was rescued and handed over by Child Welfare Committee, Villupuram, in temporary custody for care on 05.04.2021 and the said minor child was declared as legally free for adoption by the Child Welfare Committee, Villupuram by its order dated 07.07.2021.

4. The petitioners 2 and 3 were matched for the above referred minor

child through CARA online system and subsequently they accepted to



adopt the child Nivedita also known as Rexina Charlet on 06.07.2021. The petitioners 2 and 3 are not blessed with the biological child and in such circumstances, they sought to adopt the minor child Nivedita, also known as Rexina Charlet.

5. The 2nd petitioner is working as Regular Presbyter in Diocese of Tirunelveli drawing a salary of Rs.44,093/- per month and as seen from the petition in OP No.769 of 2021. The 3rd petitioner is the house wife. The petitioners 2 and 3 have pleaded that they have sufficient means to maintain the minor child and they have also undertaken to provide all facilities that are naturally given for a biological child.

6. Before the learned Master, Mr.A.Samson/2nd petitioner was examined as witness (P.W.1). In his deposition, he has reiterated the contents of the petition filed in support of O.P.No.769 of 2021. Through P.W.1, the following documents were marked as exhibits:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Original order passed by the Child Welfare Committee, Villupuram dated 05.04.2021.
Ex.P-2	Original certificate given by the Child Welfare Committee, Villupuram dated 07.07.2021.
Ex.P-3	Online copy of registration acknowledgement letter dated 12.07.2018.
Ex.P-4	Original Home Study Report dated 24.07.2018.
Ex.P-5	Original Child Study Report dated 06.07.2021.
Ex.P-6	Original Medical Examination Report of the child dated 06.07.2021.



<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P.7	Original Pre-Adoption Fostercare Undertaking dated 04.08.2021.
Ex.P.8	Photocopy of the extract of Marriage Register dated 05.06.2020.
Ex.P.9	Series 2 Nos are the original Medical Fitness Certificates both dated 20.07.2021 in respect of the petitioners 2 and 3.
Ex.P.10	Photocopy of the Salary certificate of the 2 nd petitioner dated 21.07.2021.
Ex.P.11	Photocopy of the Aadhaar card of the 2 nd petitioner, Samson, bearing No. 2607 9778 5170.
Ex.P.12	Photocopy of the Aadhaar card of the 3 rd petitioner bearing No. 7819 5338 8275.
Ex.P.13	Photocopy of the PAN card of the 2 nd petitioner bearing No.JUSPS6397R.
Ex.P.14	Photocopy of the PAN card of the 3 rd petitioner bearing No.AJIPI2537H..
Ex.P.15	Photocopy of the Transfer Certificate bearing Serial No.3536 in respect of the 2 nd petitioner dated 12.07.2005.
Ex.P.16	Photocopy of the Transfer Certificate bearing Serial No.57 in respect of the 3 rd petitioner dated 11.05.2009.
Ex.P.17	Joint declaration of willingness given by the petitioners 2 and 3.
Ex.P.18	Photograph of minor child Nivedita now known as Rexina Charlet, along with compact disc.

7. Mr.K.Sankar Raj, a Social Worker employed with the first petitioner Child Care Institution and also a Power Agent of the 1st

petitioner has also been examined as witness (P.W.2). Through P.W.2, the

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

following documents were marked as exhibits:-



<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-19	Photocopy of the Trust Deed dated 09.04.2014.
Ex.P-20	Photocopy of the Power of Attorney dated 29.09.2021.
Ex.P-21	Affidavit of Sankar Raj dated 26.11.2021.
Ex.P-22	Photocopy of the Certificate of Recognition given by the Government of Tamil Nadu dated 23.12.2016 along with photocopy of the letter dated 23.12.2016 issued by the Secretary to Government, Social Welfare and Nutritious Meal Programme Department, Government of Tamilnadu.
Ex.P.23	Photocopy of the letter dated 04.08.2020 sent by the Commissioner of Social Defence, Chennai - 10 to the Secretary, Varshini Illam District, Kancheepuram District.

8. As seen from the evidence available on record, the petitioners have satisfied all the statutory and legal requirements for declaring the petitioners 2 and 3 as the parents of the minor child Nivedita, also known as Rexina Charlet, who was born on 22.03.2021 and was abandoned on 05.04.2021, when she was just 15 days old at Mambazhapattu, Villupuram District and was rescued and handed over by Child Welfare Committee, Villupuram in temporary custody for care on 05.04.2021. The minor child was declared as legally free for adoption by the Child Welfare Committee, Villupuram by its order dated 07.07.2021. The petitioners 2 and 3 are not blessed with the biological child and in such circumstances, they sought to adopt the minor child Nivedita, also known as Rexina Charlet as their own



child.

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9. The 2nd petitioner is working as Regular Presbyter in Diocese of Tirunelveli drawing a salary of Rs.44,093/- per month, which has been confirmed by the salary certificate of the 2nd petitioner, which has been marked as Ex.P.10. The medical examination Report of the child dated 06.07.2021 has been marked as Ex.P.6, which confirms that the child is medically fit for adoption. The original order passed by the Child Welfare Committee, Villupuram, declaring the child to be fit for adoption, has been marked as Ex.P.1. The Original certificate given by the Child Welfare Committee dated 07.07.2021 has been marked as Ex.P.2. The other documents marked as exhibits entitles the petitioners 2 and 3 to adopt the aforementioned minor child Nivedita, also known as Rexina Charlet. The photocopy of the Trust Deed dated 09.04.2014, marked through P.W.2, has been marked as Ex.P.19. The photocopy of the Power of Attorney dated 29.09.2021 has been marked as Ex.P.20. The licence granted to the first petitioner has got expired on 22.12.2021. The learned counsel for the petitioners submits that the 1st petitioner has applied for renewal and it is being processed by the concerned statutory authority.

10. Regulation 24(4) of the Adoption Regulations, 2017 makes it clear that “ *in case the Specialised Adoption Agency has applied for recognition or renewal with the State Government and the provisional*



registration certificate has not been issued by the State Government within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional recognition to run the agency for a maximum period of six months.

11. Regulation 24(5) makes it clear that “in case the renewal of recognition of a Specialised Adoption Agency is pending, all the pending adoption cases shall be allowed to proceed subject to all other provisions of these regulations being fulfilled”.

12. Regulations 24 (4) and (5) also come to the aid of the 1st petitioner as they have applied for renewal which is under processing by the statutory authorities. Further, this petition was filed only when the 1st petitioner's licence was within the validity period.

13. After giving due consideration to the pleadings and the evidence available on record, this Court is inclined to grant the relief sought for by the petitioners 2 and 3 in this petition.

14. Accordingly, this original petition is allowed and :

(i) The petitioners 2 and 3, who are presently residing at No.33, Vedha Oli Street, Samariya, Tisayanvillai, Radhpuram, Tirunelveli, Tamilnadu - 627 657 are hereby appointed as parents of the minor

child Nivedita, also known as Rexina Charlet whose



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photograph is duly attested and annexed hereto as per

Section 56(1) of Juvenile Justice (Care and Protection of Children) Act 2015 read with Section 45(2) of Juvenile Justice (Care and Protection of Children) Rules 2016 and they are permitted to bring up the child as their own child.

(ii) The minor Nivedita, also known as Rexina Charlet is entitled to the legal status of a biological child for the petitioners 2 and 3 with all the rights of succession and inheritance;

and

(iii) a direction is issued to the Birth Certificate Issuing Authority to issue birth certificate for the minor Nivedita, also known as Rexina Charlet, within five working days from the date of application as per the provisions of Regulation 36 of the Adoption Regulations of CARA.

Sd./-A.Q.J
19.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.