

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INDIAN ADOPTION PETITION NO. 43 OF 2022

WITH

JUDGE'S ORDER NO. 93 OF 2022

IN

INDIAN ADOPTION PETITION NO. 43 OF 2022

Vatsalya Trust

...Petitioner

And

1. Mr. Henish Prafulbhai Vora

2. Mrs. Shweta Henish Vora

...Proposed Adopters

Ms. Sangeeta Nagpal, for the petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.

Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J

DATE : 2nd FEBRUARY, 2023

P.C. :

. The petitioner is a registered Child Welfare Organization recognized by the Government of Maharashtra as a specialized adoption agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The present petition is moved by the petitioner alongwith prospective adoptive parents for adoption of

minor child Kushal. The said child is a Court committed child, born on 23/5/2021 and is in the care and custody of petitioner institution.

2. The prospective adoptive parents were married on 5/5/2011 and they do not have any biological child. They are registered in the Child Adoption Resource Information and Guidance System and they were directed by the Central Adoption Resource Authority (CARA) to apply to the petitioner for adoption of the minor child.

3. The prospective adoptive father is having his own business, earning about 3,60,000/- per annum. The prospective adoptive mother is a home maker. The home study of the prospective adoptive parents were prepared by a social worker as per adoption regulations and the report is positively in favour of the prospective adoptive parents.

4. The brother and sister-in-law of the prospective adoptive father have given an undertaking to take care of the child, in case any mishap occurs with the prospective adoptive parents. The minor child was surrendered by the biological mother and the Child Welfare Committee had declared the minor child legally free for adoption under Section 38 of the said Act. The prospective adoptive parents have executed documents giving their consent and showing willingness to adopt the minor child.

5. The report submitted by the Indian Council of Social Welfare supports the assertions made in the petition. The prospective adoptive parents undertake to invest sum of Rs.1 Lakh in LIC's Single Premium Endowment Policy, in the name of the minor child. They will not withdraw the said invested amount till the minor child attains the age of majority.

6. Heard Ms. Nagpal, learned counsel for the petitioner in the backdrop of the aforesaid material, in the presence of Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare. Mr. Hareendran has handed over report of the Council, which also positively recommends the prospective adoptive parents to adopt the child. The same is taken on record and marked 'X'.

7. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors. in Writ Petition No.32065/2022 on 10/1/2023*, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication of such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of the Division

Bench reads as follows :

“8. In the meantime, there will be an ad-interim order only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:

(d) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to stay the effect, implementation and purport of the letter dated 30th September, 2022 issued by Respondent No.2;

(e) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to direct the Respondents not to transfer pending adoption matters before the District Magistrates for adjudication.

(f) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to direct the Hon’ble Courts to continue with the adjudication of the adoption matters that are pending on their record and file.”

8. In view of the above, this Court is satisfied that the prayers made in the present petition can be allowed. Accordingly, the petition stands allowed in terms of prayer clauses (a) to (e) which read as follows :

(a) For adoption of the proposed male minor Kushal @ Kiaan Henish Vora born on 23rd May 2021 by the prospective adopters under Juvenile Justice Act.

(b) For declaring the prospective adopters as adoptive parents of the said minor and shall have all the rights, privileges and responsibilities over the said minor Kushal @ Kiaan Henish Vora.

(c) That the prospective adopters be granted permission to change the name of minor Kushal to Kiaan Henish Vora.

(d) That the concerned Municipal Authority / Birth Certificate Issuing Authority may be directed to issue Birth Certificate in the name of the said minor Kiaan Henish Vora, born on 23rd May 2021 and stating thereon that the prospective adoptive parents as the parents of the said minor.

(e) That the prospective adoptive parents may be granted leave to remove the said minor from the jurisdiction of this Hon'ble Court and to take the said minor out of the jurisdiction of this Hon'ble Court whenever required.

9. The Judge's order is separately signed.

(MANISH PITALE, J)