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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

FOREIGN ADOPTION PETITION NO.5 OF 2023
WITH
JUDGE'S ORDER NO.23 OF 2023

Bal Anand

...Petitioner

Versus

1. Christian Damien Jowel Laguerre
2. Annette Michelle Laguerre

...Proposed
Adopters

Mr. Rakesh Kapoor, for the Petitioner.
Mr. O Hareendran, Scrutiny Officer.
Mr. D.S. Gurav, Chamber Registrar.

CORAM : R.I. CHAGLA J

DATE : 22 JUNE 2023

ORDER :

1. By this Foreign Adoption Petition, the proposed adopters who are American nationals are seeking adoption of the proposed siblings, female minor Sakshi, born on 10th July, 2015 and male minor Sujal, born on 9th April, 2013. The said minors were found abandoned by Ghatkopar Police Station Mumbai on 16th March,

2018 and produced before the Child Welfare Committee (CWC), Mumbai Suburban District on the same day. The said minors safe custody was given to the Petitioner Institution Bal Anand, Chembur, Mumbai as per the order of the said CWC dated 16th March, 2018 under the provisions of Juvenile Justice Act, 2015 for further rehabilitation. The Admission Orders of the CWC are on record at page Nos. 21 - 22 to the Petition.

2. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the Child Welfare Committee, Mumbai City II declared the proposed minors Sakshi & Sujal “Legally Free for Adoption” on 12/02/2021. The Free for Adoption Certificates are on record at page Nos. 17 - 20 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 22nd November, 2022 to this adoption as per Adoption Regulations 2022 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate is placed on record at Page No. 29 to the

Petition.

4. The undertaking / affidavit by the Petitioner Institution is placed on record at page Nos. 24 - 28 to the Petition.

5. The Proposed Adopters are American Nationals, both residing at Maryland, USA aged about 38 and 49 years respectively. They have been married for the past 16 years (14/07/2007). They have one biological daughter aged about 12 years born on 26th February, 2012. Her Health certificate and consent letter are placed on record at page Nos. 42 - 47 to the Petition.

6. The Proposed Adopters Joint Family Photograph and Copies of Passport are placed on record at page Nos. 30 - 33 to the Petition.

7. The Medical reports dated 29th August, 2022 of the prospective adoptive parents is on record and it states that the proposed adopters do not have any unfavorable physical, mental, or psychological factors that might affect the upbringing of a child and their health suitable for raising a child. Their HIV and HBsAg Test

Reports certify the case as Negative. The reports are placed on record at Page Nos. 51 - 65 to the Petition.

8. Motivation Letter of the proposed Adopters is placed on record at page No. 50 of the Petition.

9. The Prospective Adoptive Father is working as an Engineer-Senior Technical Account Manager with Amazon Web Services, USA since August 26, 2019 and his annual salary is \$164,000.00. His Employment & Income certificate is placed on record at page No. 68 to the Petition. The Prospective Adoptive mother is a Homemaker.

10. Further, other relevant documents such as U.S. Individual Income Tax Return-2021, Bank Reference and Proof of Residence are placed on record at page Nos. 69 - 84 to the Petition.

11. The Childcare Plan letters by the Proposed Adoptive Mother is placed on record at page Nos. 85 - 92 to the Petition.

12. The home study report dated 26th May, 2022 by the authorities of “America World Adoption” Virginia, U.S.A., is on record and the report has found the proposed adopters suitable for adopting a child or a sibling group of two children of either gender, from India from birth through ten years of age. The Home Study Report is placed on record at page Nos. 93 - 109 to the Petition.

13. The Psychological Evaluation Reports dated 14th July, 2022 of the prospective adoptive parents by the Licensed Psychologist R. Hallie Strauss, Psy.D. are placed on record at Page Nos. 110 - 119 to the Petition. The said report has found the proposed adopters are stable psychological health, with capacity to parent and provide a safe and loving home for a child.

14. The Permission from the Receiving Country (“Article 5” Letters) from the Embassy of the United States of America dated 19th August, 2022 is on record at page Nos. 120 - 125 to the Petition.

15. The Child Security undertaking dated 8th August, 2022 of the adoptive mother’s brother and sister-in-law residing at

USA to look after the proposed minor in case of any mishap to the Proposed Adopters is placed on record at page Nos. 138 to 143 of the Petition.

16. The Medical Examination report of the minor Sakshi dated 17th February, 2021 is on record and it states “Health Status: Normal. Over all observation of the child: She is a happy, cheerful child who is independent in activities of daily living. Her growth and development is appropriate for her age”. The Proposed Adopters have countersigned this Report along with additional investigation reports which are placed on record at page Nos. 149 - 164 to the Petition.

17. The Clinical Psychologist’s Report of the minor Sakshi dated 17th May, 2022 is on record at page No. 165 and it states that her IQ is found to be 97, indicative of Average Intellectual capacity.

18. The Medical Examination report of the minor Sujal dated 17th February, 2021 is on record and it states “Health Status: Special Need. Over all observation of the child: He is independent 8

years old child. He has profound bilateral hearing loss”. The Proposed Adopters have countersigned this Report along with additional investigation reports which are placed on record at page Nos. 171 - 183 to the Petition.

19. The Clinical Psychologist’s Report of the minor Sujal dated 17th May, 2022 states that his IQ is found to be 75, indicative of Borderline Development in relation to social maturity. The said Report is placed on record at page No. 184 to the Petition.

20. The H.I.V. report of the proposed minors dated 21st April, 2023 certifies the case as Negative. These reports are placed on record at Page Nos. 201 - 202 to the Petition. The Post Card size photographs of the minors are placed on record at Page Nos. 203 - 204 to the Petition.

21. As regards the change of name, the proposed Adopters desire that the minor ‘SAKSHI’ be renamed as “Sakshi Zoe Laguerre” and “SUJAL be renamed as “Sujal Zachariah Laguerre”.

22. The Child Approval Letters and Post Adoption

Undertaking letter of the Proposed Adopters have been placed on record at Page Nos. 205 - 216 to the Petition.

23. The undertaking dated 9th July, 2022 of the Authorized Foreign Adoption Agency (AFFA), "Lifeline Children's Services", U.S.A. to provide follow-up reports of the child and make alternative arrangements in case of disruption of the adoptive family is on record at page Nos. 217-219 to the Petition.

24. The Special Power of Attorney dated 6th September, 2022 duly signed by the Proposed Adopters in favour of the Petitioner Institution is placed on record at page Nos. 220 - 225 to the Petition.

25. The Petitioner Institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

26. The report of Mr. O. Hareendran, Scrutiny Officer is tendered and taken on record and marked 'X' for identification.

27. Having considered the material on record as well as the report of the Scrutiny Officer marked 'X', I am of the view that, it would be in the best interest of the said proposed minors, if they are adopted by the Proposed Adopters.

28. It is necessary to note that the Division Bench of this Court in ***Nisha Pradeep Pandya @ Nisha Amit Gor and Anr. Vs. Union of India and Ors.***¹ concerning challenge raised to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, passed an interim order dated 10th January, 2023. The relevant portion of the said order of 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

¹ W.P.(L) No.32065 of 2022

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.

9. Additionally, the safer and more prudent course of action would be to allow all matters to be placed before the learned Single Judge of this Court who is assigned those matters. Those orders may be continued to be passed until the challenge is finally decided."

29. In view thereof, I do not find any impediment in granting the reliefs sought for in the above Petition.

30. In these circumstances, the Petition is allowed in terms of prayer Clauses (a) to (e), which read thus:-

(a) For the Adoption of the proposed minors Sakshi Zoe Laguerre born on 10/07/2015 & Sujal Zachariah Laguerre born on 09/04/2013 by the proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minors Sakshi Zoe

Laguerre & Sujal Zachariah Laguerre and having all parental rights, privileges and responsibilities over the said minors now in the care and custody of Bal Anand, Worldchildren Welfare Trust India, Sai Krupa, 93,Ghatla Village, Chembur, Mumbai – 400071.

(c) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minors Sakshi Zoe Laguerre born on 10/07/2015 & Sujal Zachariah Laguerre born on 09/04/2013 and showing the proposed adopters as Parents. (d) That the Proposed Adopters may be granted leave to remove the said minors Sakshi Zoe Laguerre & Sujal Zachariah Laguerre from the jurisdiction of this Hon'ble Court and to take the said minor to U.S.A. or wherever they may reside in future.(e) That the proposed adopters be allowed to change the name of the said minors SAKSHI to "Sakshi Zoe Laguerre" and SUJAL to "Sujal Zachariah Laguerre" respectively.

31. It is directed that the Petitioner Institution shall obtain a further undertaking from the adoptive parents that they shall not give the said minors for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

32. The Judges Orders are also separately signed.

33. The Foreign Adoption Petition is accordingly

disposed of. No order as to costs.

34. This Order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this Order.

[R.I. CHAGLA J.]