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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO.25 OF 2023
WITH
JUDGE'S ORDER NO.49 OF 2023**

Indian Association for Promotion of Adoption ...Petitioner

Versus

**Mr. Prashant S. Gavli and Mrs. Aparna P. Pawar ...Prospective
Adoptive Parents**

Ms. Shweta R. Prabhu for the Petitioner.

Mr. O.Hareendran, Scrutiny Officer is present.

Mr. Dilip Guruv, Chamber Registrar is present.

**CORAM : R.I. CHAGLA J.
DATE : 31 AUGUST 2023.**

ORDER :

1. By this Indian Adoption Petition, the Petitioner and Prospective Adoptive Parents have sought adoption of the female minor Advika born on 28th May, 2022 (“the said female minor”). The biological mother surrendered the said female minor child before the Child Welfare Committee (CWC), Mumbai City – I on 18th July, 2022 and the said female minor child’s custody was given to the Petitioner institution on the same day. On 18th August, 2022 through its order,

the CWC recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The custody order dated 18th August, 2022 of the CWC is placed on record at page 52 to the Petition.

2. After making due inquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City II declared the said female minor Advika “Legally Free for Adoption” on 16th November, 2022. The Free for adoption Certificate is placed on record at page 54-55 to the Petition.

3. The Prospective Adoptive Parents are Indian Nationals, residing at Titwala, Dist. Thane, Maharashtra aged about 47 and 41 years respectively. They have been married for the past 12 years (26th August, 2011) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is placed on record at page 27 to the Petition.

5. The Affidavit by the Chief Functionary of the Specialized

Adoption Agency (Petitioner) in support of the adoption of the said female minor child Advika is placed on record at pages 165-167 to the Petition.

6. The Decision of Adoption Committee meeting dated 10th February, 2023 is placed on record at Pages 26a to 26e and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child Advika born on 28th May, 2022.

7. The Medical Reports of the Prospective Adoptive Father dated 19th January, 2023 and 26th January, 2023 is on record and states that he is on treatment for Diabetes Mellitus since 2/3 years. He is fit for adoption. His HIV and HbsAg Test report certifies the case as Non-Reactive. These reports have been placed on record at pages 28 to 42 to the Petition.

8. The Medical Reports of the Prospective Adoptive Mother dated 19th January, 2023 and 26th January, 2023 are on record and states that she is on treatment for Hyperthyroidism since 2½ years. She is fit for adoption. Her HIV and HbsAg Test report certifies the

case as Non-Reactive. These reports have been placed on record at pages 43 to 51 to the Petition.

9. The Prospective Adoptive Father is self-employed (Auto Driver - own Auto since 2015 and also running Barber Shop at Titwala since 2001). His total income for the Assessment Year 2022-23 is Rs. 2,46,537/-. The Indian Income Tax return verification Form for the Assessment Year 2022-23 is placed on record at pages 82-87 to the Petition.

10. The Prospective Adoptive Mother is working as a Laboratory Attendant on temporary basis in the Department of Chemistry with University of Mumbai since 2010 and her total income for the Assessment Year 2022-23 is of Rs. 1,83,740/-. The Indian Income Tax Return acknowledgment for the Assessment Year 2022-23 is placed on record at pages 88-91 to the Petition. The employment letter which has been tendered with pursis by learned Adoptive for Petitioner is taken on record and marked 'X' for identification.

11. The copies of Aadhar & Pan Card, supportive

financial documents, Assets & Liabilities statement and proof of residence are placed on record at pages 76-81 and 92-102 to the Petition.

12. The Child Care Arrangement Plan Declaration by the Prospective Adoptive Mother and her sister-in-law is placed on record at Pages 161-164 to the Petition.

13. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is placed on record at pages 115-132 to the Petition.

14. The Part II: Assessment Reports dated 4th December, 2019 and 12th January, 2023 by the Social Worker of Specialized Adoption Agency "Janani Ashish Charitable Trust" Dombivli, Dist. Thane is on record and the reports have found the Prospective Adoptive Parents suitable for adopting a female child between the age group of 0 to 2 years. These reports have been placed at pages 104-114 to the Petition.

15. The Child Security Undertaking dated 12th

February, 2023 given by the prospective adoptive mother's brother and sister-in-law residing at Nerul, Navi Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at pages 157-160 to the Petition.

16. The pre-adoption foster care undertaking dated 15th February, 2023 is placed on record at pages 61-67 to the Petition.

17. The Medical Examination Report of the said female minor dated 12th January, 2023 states "Health status of the child: Normal. Overall observation of the child: Advika is a calm and loving girl". The Prospective Adoptive Parents have countersigned the said Medical Examination Report. The said Reports has been placed on record at pages 146-156 to the Petition.

18. The HIV Report of the said female minor dated 8th July, 2023 certifies the case as Non Reactive. This report is placed on record Page 157 to the Petition.

19. The Post Card Size Photograph of the said female

minor is on record at Page 20 to the Petition.

20. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Advika' be renamed as "Advika Aparna Prashant Gavli".

21. The consent, willingness and undertaking by the Prospective Adoptive Parents is on record and states that they are willing to be appointed and declared as Adoptive Parents of the said female minor Advika born on 28th May, 2022. This declaration is placed on record at pages 57-60 to the Petition.

22. The undertaking by the authorities "Janani Ashish Charitable Trust" Dombivli, Dist. Thane for furnishing post adoption follow-up reports is placed on record at page 103 to the Petition.

23. The Petitioner Institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid upto 5th May, 2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered

report / representation of the Indian Council of Social Welfare dated 23rd August, 2023 which is taken on record and marked 'X' for identification.

25. Under these circumstances, I am of the view that it is in the interest of the said female minor that she is adopted by the Prospective Adoptive Parents.

26. It is relevant to note here that in the case of ***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

¹ W.P.(L) No.32065 of 2022

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.

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."

27. Thus, there is no impediment in granting the relief sought for in the Petition.

28. In the circumstances, the Indian Adoption Petition is allowed in terms of prayer Clauses (a) to (d), which read as under:-

(a) This Hon'ble Court may be pleased to declare the Proposed adopters as Adoptive Parents of Advika (female minor) and shall have all parental legal rights, privileges and responsibility over the said minor are now in the care and custody of Indian Association for Promotion of Adoption & Child Welfare Mumbai.

(b) This Hon'ble Curt may be pleased to grant leave to remove the said minor outside the jurisdiction of this Hon'ble Court whenever required.

(c) This Hon'ble Courtbe pleased to further order The Brihan Mumbai Municipal Corporation to issue individual birth certificate in the name of the said minor stating the proposed adopters as Parents. The Proposed Adopters may be granted Leave to apply to the Passport office or any other Authority for the same.

(d) This Hon'ble Court may grant leave to file further affidavit if necessary.

29. There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.1 lakh in the name of the Adopted Child till the Adopted Child attains the age of majority. The Adoptive Parents have agreed to handover the investment receipts to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

30. The Judge's Order is separately signed.
31. The Indian Adoption Petition is accordingly disposed of.
There shall be no order as to costs.
32. At this stage, the learned Advocate for the Petitioner has sought leave to carry out amendment in the prayer clauses of the Petition to add prayer for change of name of the Adopted Child 'Advika' to be renamed as "Advika Aparna Prashant Gavli".
33. Leave is granted. Amendment shall be carried out forthwith.
34. In view of newly added prayer clause, the Petition is also allowed in terms of prayer clause (f).
35. 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.]