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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.23 OF 2023
WITH
JUDGE'S ORDER NO.46 OF 2023

Bal Asha Trust, Mumbai

...Petitioner

And

Mr. Amey Rajeev Dhere and
Mrs. Sukhada Amey Dhere

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor, i/b. M/s. Rakesh Kapoor & Co. 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 female minor Arushi Vijay Yadav ("the said female minor") born on or about 6th November, 2016. The said female minor was found abandoned by the Powai Police Station, Mumbai and admitted to the Petitioner

Institution on 26th April, 2022 as per the order of the Child Welfare Committee, (“CWC”) Mumbai City I dated 26th April, 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Safe Custody Order of the CWC is on record at page 27 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 declared the said female minor Arushi Vijay Yadav “legally free for adoption” on 19th October, 2022. The Free for Adoption Certificate has been placed on record at Pages 24 – 25 to the Petition.

3. The Prospective Adoptive Parents are Indian Nationals residing at Pune aged about 39 and 40 years respectively. They have been married for the past 15 years (21st February, 2008) with one biological daughter aged about 12 years (DoB:18th March, 2011). The birth certificate, consent letter and health report have been placed on record at pages 31-34 to the Petition.

4. The motivation letter from the prospective adoptive

parents have been placed on record at page 39 to the Petition.

5. The Affidavit by the Chief Functionary of the Specialized Adoption Agency of the Petitioner in support of the adoption of the said female minor Arushi Vijay Yadav has been placed on record at pages 164-168 to the Petition.

6. The decision of the Adoption Committee dated 25th January, 2022, whereby the Committee had decided that the prospective adoptive parents are suitable to adopt the said female minor Arushi Vijay Yadav has been placed on record at pages 19-20 to the Petition.

7. The health reports dated 17th December, 2022 of the prospective adoptive parents state that 'they are physically and mentally fit'. Their HIV and HBsAg test reports certify the case is negative. These reports have been placed on record at pages 35-38 to the Petition.

8. The prospective adoptive father is practicing Chartered Accountant and the partner of Doshi and Dhere Chartered

Accountants since 2011 and his income for the assessment year 2022-23 is Rs.17,24,730/-. His Income Tax Return for the Assessment Year 2022-23 is placed on record at pages 51-56 to the Petition.

9. The prospective adoptive mother is also practicing Chartered Accountant and the partner of Doshi and Dhere Chartered Accountants since 2009 and her income for the assessment year 2022-23 is Rs.7,46,240/-. Her Income Tax Return for the Assessment Year 2022-23 is placed on record at pages 57-66 to the Petition.

10. The proof of residence, Aadhar Card and Pan Card and supportive financial documents have been placed on record at pages 40-45 and 67-113 to the Petition.

11. The Child Care arrangement plan by the prospective adoptive mother is placed on record at page 114 to the Petition.

12. The Home Study Report Part I Self Assessment by the prospective adoptive parents is on record at pages 115-125 to the Petition.

13. The Part II Assessment Report dated 2nd May, 2023 by the Social Worker of 'SOFOSH' - Society of Friends of the Sassoon Hospitals, Pune has found the prospective adoptive parents suitable for adopting said female minor child. The said report is placed on record at pages 126-141 to the Petition.

14. The Child Security undertaking dated 3rd February, 2023 of the prospective adoptive mother's sister and brother in law residing in Pune to look after the said female minor in case of any mishap to the prospective adoptive parents has been placed on record at pages 148-152 to the Petition.

15. The medical examination report dated 6th April, 2023 of the said female minor child is on record and states "health status:Normal'. Overall observation of the child Arushi is a pleasant girl, who is in good physical and mental health. The proposed adopters have countersigned the said report. The said report is placed on record at pages 154-160 to the Petition.

16. The HIV report of the said female minor Arushi dated 10th May, 2022 certifies the case as Non Reactive. The report

has been placed on record at page 162 to the Petition.

17. The post card size photograph of the said female minor Arushi is on record at page 163 to the Petition.

18. As regard the change of name, the prospective adoptive parents desire that the said female minor 'Arushi Vijay Yadav' be renamed as "Aarushi Amey Dhere".

19. The declaration of consent and undertaking by the prospective adoptive parents state that they are willing to adopt and be declared as the adoptive parents of the said female minor Arushi Vijay Yadav. This declaration is placed on record at pages 46-48 to the Petition.

20. The pre-adoption foster care Affidavit dated 8th February, 2023 has been placed on record at pages 49-50 to the Petition.

21. The undertaking dated 26th June, 2023 given by the authorities of SOFOSH for furnishing post adoption follow-up

reports has been placed on record at page 169 to the Petition.

22. The Petitioner institution's recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid for the period upto 5th May, 2025.

23. 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.

24. 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 adoptive parents.

25. 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

¹ W.P.(L) No.32065 of 2022

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 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.”*

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

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

(a) That the Prospective Adoptive Parents be given the said child in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minor Aarushi Amey Dhere.

(b) 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.

(c) That the concerned Municipal Authority/Birth

Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Aarushi Amey Dhere born on 06/11/2016 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to Change the name of the minor from 'Arushi Vijay Yadav' to "Aarushi Amey Dhere".

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.2 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.

29. The Judge's Order is separately signed.

30. The Indian Adoption Petition is accordingly disposed of. There shall be no order as to costs.

31. 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.]