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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.41 OF 2023
WITH
JUDGE'S ORDER NO.71 OF 2023

Shree Manav Seva Sangh

...Petitioner

Mr. Gadi Narendra Kumar
Mrs. Mathala Venkata Archana

...Prospective
Adoptive Parents

Mr. Rakesh K.L. Kapoor, for the Petitioner.

Mr. O.Hareendran, Scrutiny Officer is present.

Mr. Dilip Gurav, Chamber Registrar is present.

CORAM : R.I. CHAGLA J.
DATE : 19TH OCTOBER, 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Rishabh ("the said male minor").

2. The said male minor was born on 03/10/2022 and the biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai City-II on 21/10/2022. The child's custody was given to the Petitioner Institution on the same day as per

the order dated 21/10/2022 of the said CWC, Mumbai City II under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The said Order of the CWC is placed on record at page 22 to the Petition.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the CWC, Mumbai City II declared the said male minor “Legally Free for Adoption” on 26/12/2022. The Free for adoption Certificate is placed on record at page 21 to the Petition.

4. The Prospective Adoptive Parents are residing at Hyderabad, Telangana aged about 36 and 38 years respectively, having been married for the past 8 years (25/02/2015) with no biological children.

5. The motivation letter from the Prospective Adoptive Parents is placed on record at page 30 to the Petition.

6. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is placed on record at pages 133-137 to the Petition.

7. The Minutes of Adoption Committee Meeting held on

16/05/2023 is placed on record at pages 19-20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.

8. The Health report dated 27/04/2023 of the Prospective Adoptive Parents states, "They do not have any physical or mental condition which would impair their ability to care for an adoptive child and they are medically fit". Their HIV and HBsAg test reports certify the case as Non Reactive. The said reports are placed on record at pages 26 to 29 to the Petition.

9. The Prospective Adoptive Father is working as a Database Administrator with IBM India Pvt. Ltd, Hyderabad since 29/09/2016 and his monthly (March-2023) gross salary is Rs. 1,78,890.26/-. His Employment Certificate, Pay Slips and Form No. 16 are placed on record at pages 41-62 to the Petition.

10. The Prospective Adoptive Mother is working as an Application Database Administrator with IBM India Pvt. Ltd, Hyderabad since 27/07/2007 and her monthly (March-2023) gross salary is Rs. 2,96,107.07/-. Employment Certificate, Pay Slips and Form No. 16 are placed on record at pages 63-84 to the Petition.

11. The Proof of Residence, Copies of Aadhar and Pan

Card and supportive financial documents are placed on record at pages 31-37 & 85-93 to the Petition.

12. The childcare plan declaration by the Adoptive Mother and her mother is placed on record at pages 94-95 to the Petition.

13. The home study report Part I: Self Assessment by the Prospective Adoptive Parents is placed on record at pages 96-103 to the Petition.

14. The home study report part II: Assessment report dated 28/09/2022 by the authorities of “District Welfare Officer, WCD & SC Department”, Raga Reddy Dist. Telangana is placed on record and the report has found the Prospective Adoptive Parents are suitable for adopting a child. The said report is placed on record at pages 104-106 to the Petition.

15. The child security undertaking dated 27/04/2023 of the Prospective Adoptive Father’s sister and brother-in-law residing at Hyderabad, Telangana to look after the proposed minor in case of any mishap to the Prospective Adoptive Parents. The said undertaking is placed on record at pages 117-119 to the Petition.

16. The Medical Examination Report dated 28/03/2023 of the said male minor states “Health Status: Normal. Overall Observation of the child: His growth and development is appropriate as per age”. The Proposed Adopters have countersigned the said report. The said report is placed on record at pages 123-129 to the Petition.

17. The HIV report of the said male minor dated 15/03/2023 certifies the case as Negative. This report is placed on record at page 131 to the Petition. The Post Card Size Photograph of the said male minor is placed on record at page 132 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor ‘Rishabh’ be renamed as Gadi Shaurya”.

19. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. The declaration is placed on record at page 38 to the Petition.

20. The Pre-adoption foster care undertaking dated 27/04/2023 is placed on record at pages 39-40 to the Petition.

21. The undertaking dated 09/05/2023 by the authorities of Women Development and Child Welfare Department, Government of Telangana, Hyderabad for furnishing post adoption follow-up reports is placed on record at page 138 to the Petition.

22. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 07/03/2024.

23. O. Hareendran, the Scrutiny Officer has tendered his report / representation of Indian Council for Social Welfare dated 7th October, 2023 which is taken on record and marked 'X' for identification.

24. Having considered the material on record as well as the report of the Scrutiny Officer marked 'X', I am of the view that it is in the interest of the said male minor to be adopted by the Prospective 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

¹ W.P.(L) No.32065 of 2022

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 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 Gadi Shaurya in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor.

(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 Gadi Shaurya born on 3rd October, 2022 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from 'Rishabh' to "Gadi Shaurya " born on 03/10/2022.

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest a sum of Rs.1 lakh in the name of the Adopted Child till the Adopted Child attains the age of majority.

The Adoptive Parents further agree to handover the investment receipts to the Adopted Child on his 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.]