



Rameshwar Dilwale

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

INDIAN ADOPTION PETITION NO.20 OF 2023

WITH

JUDGE'S ORDER NO.38 OF 2023

IN

INDIAN ADOPTION PETITION NO.20 OF 2023

Bal Asha Trust, Mumbai

...Petitioner

And

1. Ashu Singhal
2. Riddhi Singhal

...Prospective
Adoptive Parents

Ms. Rakesh K. L. Kapoor i/by Mr. Rakesh K. L. Kapoor & Co.,
Advocate for Petitioner.

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

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 17TH AUGUST, 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner alongwith the Prospective Adoptive Parents has sought for adoption of the male minor **Ganesh** (“**the said male minor**”) born on 10th May 2020. The said male minor was found abandoned by N. M. Joshi Marg Police

Station, Mumbai on 6th September 2022 and the safe custody was given to the Petitioner Institution on the same day as per the order of the Child Welfare Committee, (CWC), Mumbai City-II dated 6th September 2022 for further care and rehabilitation under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016). The Safe Custody Order of the CWC has been placed on record at page no. 25.

2. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the Child Welfare Committee, Mumbai City II declared the said male minor (**“Legally Free for Adoption”**) on 2nd March 2023. The Free for adoption Certificate has been placed on record at page nos. 23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Ghaziabad, Uttar Pradesh, aged about 39 and 34 years respectively. They are married for the past 12 years (16th May 2011) with one biological daughter aged about 6 1/2 (DOB: 15th December 2016). Her Birth Certificate, consent letter and health Report have been placed on record at page nos. 29-31 to the Petition.

4. Motivation letter from the Prospective Adoptive Parents has been placed on record at Page no. 36 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Applicant) in support of the adoption of the said male minor Ganesh has been placed on record at page no. 114-118 to the Petition.

6. The Decision of the Adoption Committee at the meeting held on 24th April 2023 has been placed on record at page nos. 19-22 to the Petition. The committee has decided that the Prospective adoptive Parents are suitable to adopt the said male minor Ganesh born on 10th May 2020.

7. The Health Reports dated 12th November 2022 of the prospective adoptive parents state that they are medically fit. Their HIV and HbsAg test Reports certify the case as Non-Reactive. These reports have been placed on record at page nos. 32-35 to the Petition.

8. The Prospective Adoptive Father is working as a Commandant/Executive with Central Industrial Security Force, Ministry of Home Affairs, New Delhi and his gross monthly (March-2023) salary is Rs. 2,15,490/-. His pay slips, Form

No. 16 and Income Tax returns have been placed on record at page no. 48-59 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The proof of residence, Adhar and Pan Card copies and supportive financial documents have been placed on record at page no. 37-41 & 60-73 to the Petition.

10. The home study Report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at page nos. 74-81 to the Petition.

11. The part II: Assessment report dated 25th November 2021 by the Social Worker of “Bharatpuria Shiksha Samiti” Ghaziabad, U.P. has found the prospective adoptive parents suitable for adopting a child. The said Report has been placed on record at page nos. 82-84 to the Petition.

12. The child security undertaking dated 23rd December 2021 of the Prospective Adoptive father’s sister and brother-in-law residing at New Delhi to look after the proposed said minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at page nos. 98-101 to the Petition.

13. The Medical Examination Report dated 9th March 2023 of the said male minor states “Overall Observation of the child: Ganesh is developmentally normal and has grown well in the institution”. The said Report has been placed on record at page nos. 104 to 110 to the Petition. The proposed adopters have countersigned the said report.

14. The HIV Report of the proposed minor dated 23rd September 2022 certifies the case as Non Reactive. The said Report has been placed on record at page no. 112 to the Petition. Post Card Size Photograph of the said minor has been placed on record at page no. 113 to the Petition.

15. As regards the change of the name, the prospective adoptive parents desire that the said male minor ‘**Ganesh**’ be renamed as “**Karthik Singhal**”.

16. The Declaration of consent and undertaking by the prospective adoptive parents state that they are willing to be appointed and declared as the adoptive parents of the said male minor Ganesh born on 10th May 2020. The Declaration of consent and undertaking have been placed on record at page nos. 42-44 to

the petition.

17. The Pre-adoption foster care Affidavit dated 8th May 2023 has been placed on record at page nos. 45-47 to the Petition.

18. The Undertaking dated 15th July 2023 given by the Specialized Adoption Agency “Bharatpuria Shiksha Samiti” Ghaziabad, U.P. for furnishing post adoption follow-up reports has been placed on record at page no. 119 to the Petition.

19. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 5th May 2025.

20. Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare has tendered Report dated 9th August 2023, which is taken on record and marked “X” for identification.

21. Having perused the material on record as well as Report/Representation dated 9th August 2023 of the Scrutiny Officer marked ‘X’, in my view, it would be in the interest of the said male minor child, if he is adopted by the Proposed Adoptive Parents.

22. It is relevant to note here that in the case of Nisha

Pradeep Pandya alias 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, the Division Bench of this Court on 10th January, 2023 passed an interim order. The relevant portion of 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.”*

23. Hence, it is clear that this Court can consider and dispose of the present Petition.

24. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which reads as follows:-

(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 **Karthik Singhal**.

(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 **Karthik Singhal** born on 10/05/2020 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 'GANESH' to "**Karthik Singhal**".

25. The Judge's Order is also separately signed.

26. The Adoptive parents have undertaken in the Judge's Order to invest a sum Rs.2,00,000/- (Rupees Two Lakh only) in the adopted child's name. He has further undertaking not to withdraw this investment till the adopted child attains majority. They agree to handover the investment receipts to the Adopted Child on his becoming a major.

27. The present Indian Adoption Petition is accordingly, disposed of. No order as to costs.

[R.I. CHAGLA, J.]