

Kavita S. J.

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

INDIAN ADOPTION PETITION NO. 35 of 2023
WITH
JUDGE'S ORDER NO. 63 OF 2023

WWTI Bal Anand, Mumbai

...Petitioner

And

C. Rajesh Kannan and
Meenakshi Kar

...Co-Petitioners
Proposed Adopters

Mr. Rakesh K.L. Kapoor, Advocate for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer, ICSW present.

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

CORAM : R.I. CHAGLA, J.

DATE : 5TH OCTOBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the Petitioner and the Proposed Adopters, the adoption of siblings male minor "Ayan" ("the said male minor") and female minor "Nayra" ("the said female minor") have been sought.

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2. The said male minor was born on 8th July, 2018. He was found abandoned by the Mumbai Suburban Police on 10th August, 2018 and admitted to the Petitioner institution on the same day as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District dated 10th August, 2018 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The female minor “NAYRA” was born on 7th August, 2019. She was found abandoned by the Agripada Police Station, Dongri on 24th November, 2020 and kept at Asha Sadan for temporary shelter. However, since knowing that the said female minor is a sibling of the said male minor who is in the care and custody of the Petitioner Institution; the CWC Mumbai Suburban District transferred the said female minor to the Petitioner institution on 1st December, 2020. The Safe Custody Order and transfer order of CWC has been placed on record at Page No. 25-26 to the Petition.

3. After making due inquiry under Section 38 of the said Act, CWC, Mumbai Suburban District, Mumbai declared the said minors **Ayan & Nayra “Legally Free for Adoption” on 23rd May, 2022.** The Free for adoption Certificates are on record at Page No. 21-24 to the Petition.

4. The Prospective Adoptive parents are Indian Nationals, residing at Bangalore, both aged about 40 years have been married for the past 11 years (29th June, 2012) with no biological children.
5. Motivation Letter by the Prospective Adoptive Parents is on record at Page No. 36 to the Petition.
6. The Minutes of Adoption Committee Meeting held on 24th August, 2022 is on record at Page No. 20-20A to the Petition and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor and the said female minor.
7. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Applicant) in support of the adoption of the said male minor and said female minor has been placed on record at Page Nos. 102-106 to the Petition.
8. The Medical report of the prospective adoptive parents dated 17th August, 2022 states, "Currently they are not suffering from any health problem". Their HIV I & II and Hepatitis B test reports certifies the case as Non-Reactive. These reports have been placed on record at Page Nos. 30 to 35 to the Petition.

9. The Prospective Adoptive Father is working as a Lead Analyst with CGI Information Systems & management Consultant Pvt. Ltd., Bangalore since 27th April, 2020 and his gross monthly salary is Rs.1,54,499/-. His Pay slip and Tax Returns are on record at Page Nos.46-49 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence (Copies of Aadhar card) and PAN Card and other supportive financial documents have been placed on record at Page Nos.37-40 & 50-51 to the Petition.

11. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at Page Nos. 52 to 59 to the Petition. The Home Study Report part II : Assessment Report dated 2nd July, 2022 of the social worker of “Paraspara Trust”, Bangalore, Karnataka has been placed on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The report has been placed on record at Pages 60-63 to the Petition.

12. The child security undertaking dated 16th August, 2022 by the Prospective Adoptive mother’s younger sister residing at Bangalore to look after the proposed minors in case of any mishap to

the Prospective Adoptive Parents has been placed on record at Page No.71-72 to the Petition.

13. Medical Examination Report of the said male minor dated 2nd June, 2022 states “Health Status: Normal. Overall Observation of the child : Ayan was noticed to have hypo-pigmented patches since 1 year of age. Lesions have been stable regular follow up was maintained at dermatology department at Sion Hospital. From adoption point of view, he does not have any infectious or communicable skin disease, his lesions have been stable, and prognosis is good”. The prospective adoptive parents have countersigned the said Medical Examination Report which has been placed on record at Page Nos. 76-84 to the Petition.

14. Medical Examination Report of the said female minor dated 12th July, 2022 states “Health Status: Normal. Overall Observation of the child: Her growth and development at present is appropriate for age” The prospective adoptive parents have countersigned the said Medical Examination Report which is placed on record at Page Nos. 88-96 to the Petition.

15. The HIV test report of the said male minor and said female

minor dated 7th July, 2023 certifies the case as Negative. These reports have been placed on record at Page Nos. 98-99 to the Petition. Post Card Size Photograph of the said male minor and the said female minor are on record at Page Nos. 100-101 to the Petition.

16. As regards the change of name, the Adoptive Parents desire that the minor 'Ayan' be renamed as "Atharva R. Kannan" and 'Nayra' be renamed as "Ridhima R. Kannan" respectively.

17. The Declaration of consent, willingness 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 Ayan and the said female minor Nayra at Page No. 41-41A to the Petition.

18. The Pre-adoption foster care undertaking dated 29th August, 2022 has been placed on record at Page Nos. 42-45 to the Petition.

19. The undertaking dated 26th September, 2022 given by the specialized adoption agency "Paraspara Trust", Bangalore for furnishing post adoption follow-up reports have been placed on record at Page No. 107 to the Petition.

20. 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.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 11th September, 2023 which is taken on record and marked 'X' for identification.

22. Having considered the material on record as well as the Report of the Scrutiny Officer dated 11th September, 2023 marked 'X', in my view, it would be in the interest of the said male minor 'Ayan' and said female minor 'Nyra', if they are adopted by the Proposed Adoptive Parents.

23. 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 :

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

“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.”

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

25. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which read thus:-

*“(a) That the Prospective Adoptive Parents be given the said minors **Atharva R. Kannan** and **Ridhima R. Kannan** in adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minors.*

(b) That the Prospective Adoptive Parents may be granted leave to remove the said minors from the jurisdiction of this Hon’ble Court and to take the said minors 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 minors Atharva R. Kannan born on 08/07/2018 and Ridhima R. Kannan born on 07/08/2019 and stating thereon that the Prospective Adoptive Parents are the Parents of the said minors.

*(d) That the Prospective Adoptive Parents be allowed to change the the name of the minors from “**AYAN**” to “**Atharva R. Kannan**” and “**NAYRA**” to “**Ridhima R. Kannan**”.*

26. The Judge's Order is also separately signed.
27. In the Judge's Order there is undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in each of the Adopted Children's name in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Children attain majority. They have agreed to handover the investment receipt to the Adopted Children on their becoming a major. This undertaking is accepted as undertaking to this Court.
28. The present Indian Adoption Petition is accordingly, disposed of.
29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]