

Manoj Wakle

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

INDIAN ADOPTION PETITION NO.54 OF 2023
WITH
JUDGE'S ORDER NO. 90 OF 2023
IN
INDIAN ADOPTION PETITION NO.54 OF 2023

St. Chatherine's Home

...Petitioner

And

Mr. Vijay Shriram Ladole and
Mrs. Kavita Vijay Ladole

...Prospective
Adoptive Parents

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

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 30TH NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of female

minor Vijeta (“**the said female minor**”) born on 08th August, 2019 is sought. The said female minor was found abandoned by the Bandra Police Station on 09/08/2021 and the said female minor was produced before the Child Welfare Committee (CWC-II), Mumbai Suburban District, Borivali on 09/08/2021 and the child’s custody was given to the Petitioner institution on the same day as per order of the said CWC-II, Mumbai Suburban District, dated 09/08/2021 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The Admission order of the CWC is on record at page No. 22 to the Petition.

2. After making due inquiry under Section 38 of said Act, the CWC, Mumbai Suburban District declared the said female minor “Legally Free for Adoption” on 07/10/2022. The Free for adoption order is on record at Page Nos. 21 to the Petition.

3. The Prospective Adoptive parents are Indian nationals, residing at Badlapur, District. Thane, Maharashtra aged about 47 and 44 years respectively. They have been married for the past 13 years (02/05/2010) with no biological children.

4. The Motivation Letter from the Prospective Adoptive

parents is on record at Page No. 34 to the Petition.

5. The Minutes of the Adoption Committee Meeting held on 07/02/2023 is on record at Page Nos. 19-20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is on record at Page Nos. 115-119 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 29/04/2023 states, "Both are in good health". Their HIV I & II and Hepatitis B test reports certify the case as Non-reactive. This report is on record at Page Nos. 26-33 to the Petition.

8. The Prospective Adoptive father is working as an Assistant Art with Maharashtra State Road Transport Corporation (MSRTC) Thane Division and his monthly (April-2023) gross salary is Rs. 40,252/-. His pay slips and Form No.16 are on record at Page Nos. 49-60 to the Petition. The Prospective Adoptive mother is a Homemaker.

9. The Proof of Residence, copies of Aadhar and Pan Cards and other supportive financial documents are on record at page Nos. 35-40 & 61-64 to the Petition.

10. The Proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos. 31-33 & 52-64 to the Petition.

11. The Home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 65-76 to the Petition.

12. The Home Study Report Part II: Assessment report dated 02/01/2021 and 08/09/2022 of the Social Worker of Specialized Adoption Agency “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane are on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. These reports are at Page Nos. 77-83 to the Petition.

13. The child security undertaking dated 14/02/2023 given by the Prospective Adoptive father’s brother and sister-in-law residing at Amravati, Maharashtra to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at Page

Nos. 98-99 to the Petition.

14. The Medical Examination Report of the said female minor dated 07/01/2023 states, "Health Status: Normal." The Prospective Adoptive Parents have countersigned the Medical Examination Report at Page Nos. 103-110 to the Petition.

15. As regards the change of name, the Adoptive Parents desire that the said female minor 'Vijeta' be renamed as "Vijeta Vijay Ladole".

16. The HIV test report of the said female minor dated 27/07/2023 certifies the case as Non-Reactive. This report is at Page No. 114 to the Petition. The Post Card Size Photograph of the said female minor is at Page No.113 to the Petition.

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 female minor. The said Declaration is at Page Nos. 41-44 to the Petition.

18. The Pre-adoption foster care undertaking 09/02/2013 is on record at Page Nos. 45-48 to the Petition.

19. The undertaking dated 03/02/2023 given by the authority of “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane for furnishing post adoption follow-up reports is on record at Page No. 120 to the Petition.

20. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 05/05/2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation of the Indian Council of Social Welfare dated 17th November, 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 17th November, 2023 which is marked ‘X’, for identification, I am of the view that it would be in the interest of the said female minor child that she is adopted by the Proposed Adoptive.

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 :

“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 child Vijeta Vijay Ladole 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 Vijeta Vijay Ladole from the jurisdiction of this Hon’ble Court and to take the said minor out of the jurisdiction of this Hon’ble 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 Vijeta Vijay Ladole, born on 08/08/2019 and stating thereon thereon that the Prospective Adoptive Parents are the Parents of the

said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'Vijeta' to "Vijeta Vijay Ladole".

26. There is an undertaking of the Adoptive Parents in the Judge's Order to invest the sum of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child till the Adopted Child attains the age of majority. They have agreed to handover the investment receipt to the Adopted Children on her becoming a major. This undertaking is accepted as an undertaking to this Court.

27. The Judge's Order is also accepted and signed separately.

28. The present Indian Adoption Petition is accordingly, disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]