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

INDIAN ADOPTION PETITION NO.29 OF 2023

Indian Association for Promotion of Adoption and Child Welfare ...Petitioner

And

Mr. Sameer A. Shah and Nisha S. Shah ...Prospective
Adoptive Parents

Ms. Shweta R. Prabhu, for the Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar is present.

CORAM : R.I. CHAGLA J.
DATE : 7TH SEPTEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and Prospective Adoptive Parents have sought for adoption of a female minor Aanisha (“the said female minor) born on 26/01/2023. The biological mother surrendered the said female minor child before the Child Welfare Committee (CWC), Mumbai City – I on 06/03/2023 and the child’s custody was given to the Petitioner institution on the same day as per the order of the CWC dated 06/03/2023 under the

provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Safe Custody Order dated 06/03/2023 of the CWC has been placed on record at page 44 to the Petition.

2. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the Child Welfare Committee, Mumbai City II declared the said female minor Aanisha “Legally Free for Adoption” on 29/05/2023. The Free for adoption Certificate has been placed on record at pages 46-47 to the Petition.

3. The Prospective Adoptive Parents are Indian Nationals, residing at Ghatkopar, Mumbai, both aged about 43 years having been married for the past 15 years (06/07/2008) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents has been placed on record at page 25 to the Petition.

5. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said

female minor Aanisha has been placed on record at pages 48-52 to the Petition.

6. The decision of Adoption Committee meeting dated 20/02/2023 has been placed on record at pages 21-24 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child Aanisha born on 26/01/2023.

7. The Medical Reports of the Prospective Adoptive Parents dated 17/06/2023 are on record and it states that they do not suffer any chronic, contagious or non-contagious diseases; and they do not have any Physical deformities and are mentally stable. They are physically and mentally fit to adopt a child. Their HIV and HbsAg Test reports certify the case as Non Reactive. The said reports have been placed on record at pages 26-42 to the Petition.

8. The Prospective Adoptive Father is self employed (Proprietor of "Sameer Corporation "at Ghatkopar) since 2004 and his total income for the Assessment Year 2022-23 is Rs. 2,85,571/-. The Indian Income Tax Return Acknowledgment for the Assessment

Year 2022-23 has been placed on record at pages 65-66 to the Petition.

9. The Prospective Adoptive Mother is working as a Senior Manager, Finance & Administration with M/s. LP Logistics Plus Chemical SCM Pvt. Ltd., since 1st September, 2021 and her monthly gross salary is Rs. 59,800/-. The Indian Income Tax Return Acknowledgment for the Assessment Year 2022-23, Employment, and Income Certificate have been placed on record at pages 73-74a to the Petition.

10. The copies of Pan Card, supportive financial documents and proof of residence have been placed on record at pages 63-64, 67-72a and 75-81 to the Petition.

11. The Child Care Arrangement Plan Declaration by the Prospective Adoptive Parents has been placed on record at pages 127-128 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents has been placed on record at pages

89-104 to the Petition.

13. The Part II: Assessment Report dated 05/03/2021 by the Social Worker of Specialized Adoption Agency “World Children Welfare Trust India-Bal Anand”, Chembur, Mumbai is on record and the report has found the Prospective Adoptive Parents are suitable for adopting a child. The said report has been placed on record at pages 83-88 to the Petition.

14. The Child Security Undertaking dated 22/02/2023 given by the Prospective Adoptive Mother’s younger brother residing at Ghatkopar, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents has been placed on record at pages 125-126 to the Petition.

15. The Pre-adoption foster care undertaking dated 01/07/2023 has been placed on record at pages 55-56 to the Petition.

16. The Medical Examination Report of the said female minor dated 01/06/2023 states” Health status of the child:

Normal. Overall observation of the child: Aanisha appears as a calm and loving baby. Overall she is healthy and happy baby”. The Prospective Adoptive Parents have countersigned the said Medical Examination Report. The said Report has been placed on record at pages 113-123 to the Petition.

17. The HIV Report of the said female minor dated 23/05/2023 certifies the case as Non Reactive. This report has been placed on record at page 124 to the Petition. The Post Card Size Photograph of the minor has been placed on record at page 20 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the minor ‘Aanisha’ be renamed as “Chahiti Sameer Shah”.

19. The consent, willingness and undertaking by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared adoptive parents of the said female minor Aanisha born on 26/01/2023. The said declaration has been placed on record at pages 53-54 to the Petition.

20. The undertaking dated 02/02/2023 by the authorities “World Children Welfare Trust India-Bal Anand”, Chembur, Mumbai for furnishing post adoption follow-up reports has been placed on record at page 82 to the Petition.

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

22. Mr. O. Hareendran, Scrutiny Officer has tendered representation / report of the Indian Council of Social Welfare dated 5th September, 2023 which is taken on record and marked ‘X’ for identification.

23. The learned Counsel appearing for the Petitioner has tendered pursis for producing documents appended thereto, copies of which have already been filed in the Petition. However, as they are barely legible, she has submitted the said copies again on record. Hence, said pursis is taken on record and marked ‘X1’ for identification.

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

25. It is necessary to note that the Division Bench of this Court in *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 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

¹ W.P.(L) No.32065 of 2022

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) This Hon'ble Court may be pleased to declare the Proposed adopters as Adoptive Parents of Aanisha (female minor) and shall have all parental legal rights, Privileges and responsibility over the said minor now in the care and custody of Indian Association for Promotion of Adoption & Child Welfare Mumbai.

(b) This Hon'ble Curt may be pleased to grant leave to remove the said minor outside the jurisdiction of this Hon'ble Court whenever required.

(c) This Hon'ble Court be pleased to further order The Brihan Mumbai Municipal Corporation to Issue individual birth certificate in the name of the said minor stating the proposed adopters as Parents. The Proposed Adopters may be granted leave to apply to

the Passport office or any other Authority for the same.

(d) This Hon'ble Court may grant leave to file further affidavit if necessary.

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest sum of Rs.1 lakh in the name of the adopted child till the adopted child attains the age of majority. The Adoptive Parents agree 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.]