

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM ADOPTION PETITION NO.38 OF 2022
WITH
JUDGE'S ORDER NO.76 OF 2022
IN
INDIAN ADOPTION PETITION NO.38 OF 2022

St. Catherines Home ... Petitioner
and
1. Mahantesh Tukaram Amashi
2. Karuna Mahantesh Amashi ... Proposed Adopters

Mr. Rakesh K. L. Kapoor for Petitioner.
Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.
Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J.
DATE : FEBRUARY 06, 2023

P.C. :

. The petitioner is a registered Social Welfare Organization recognized by the Government of Maharashtra as a specialized adoption agency under Section 65 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The present petition is moved by the petitioner alongwith prospective adoptive parents for adoption of minor child Vidula, who is a Court committed child, born on 02.12.2021 and is in the care and custody of the petitioner institution.

2. Heard Mr. Kapoor, learned counsel for the petitioner in the presence of Mr. O. Hareendran, Scrutiny Officer of the Indian Council of Social Welfare. Mr. Hareendran has tendered report of the Council dated 02.02.2023, supporting the prayers made in the present petition. The same is taken on record and marked 'X'.

3. The prospective adoptive parents are residents of Bengaluru,

Karnataka and they are registered under the Child Adoption Resources and Information and Guidance System. They were directed by the Central Adoption Resource Authority (CARA) to approach the petitioner for adoption of the minor child. The adoption committee constituted as per the adoption guidelines has found the prospective adoptive parents eligible and suitable for adopting the minor child, as per criteria specified in Section 57 of the said Act read with Regulation 5 of the Adoption Regulations.

4. The minor child was born on 02.12.2021 and the biological mother surrendered the child before the Child Welfare Committee (CWC), Mumbai Suburban-II on 28.12.2021. On 28.02.2022, the CWC declared the minor child legally free for adoption under Section 38 of the aforesaid Act.

5. The prospective adoptive parents were married on 16.01.2009 and they do not have any biological child. Copies of the relevant documents pertaining to the prospective adoptive parents, including their marriage proof, medical certificate etc. are placed on record.

6. The prospective adoptive father is working as a Senior Manager-proposal programme with Schneider Electric Systems, earning monthly salary of Rs.1,18,709/- and the prospective adoptive mother is working as a clerk in South Indian Bank, Bangalore Branch, earning monthly salary of Rs.71,631/-. Relevant documents, including copies of the IT Returns, are annexed to the petition.

7. The Home Study of the prospective adoptive parents was carried out by a social worker at Bangalore, which recommends the prospective adoptive parents as being suitable for adopting the minor child. The prospective adoptive parents have seen the minor child, as also the medical reports of the minor child and they have consented for adoption

of the said minor child. The affidavit and verification in support of the present petition is signed and executed by the Superintendent of the petitioner, who is duly authorized to do so.

8. The report submitted by the Indian Council of Social Welfare supports the assertions made in the petition. The prospective adoptive parents undertake to invest a sum of Rs.1.5 Lakh in LIC's Single Premium Endowment Policy, in the name of the minor child. They will not withdraw the said invested amount till the minor child attains the age of majority.

9. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and anr. Vs. Union of India and ors.* in **Writ Petition No.32065/2022** on **10.01.2023**, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication of such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of the 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."

10. Having heard learned counsel for the petitioner and having perused the statements made in the adoption petition supported by the documents on record, this Court is satisfied that the present petition can be allowed. Accordingly, the petition is allowed in terms of prayer clauses (a) to (d) which read as follows:

"(a) That the prospective adoptive parents be given the said child Aditri Mahantesh Amashi 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 Aditri Mahantesh Amashi 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 Aditri Mahantesh Amashi, born on 2/12/2021 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 Vidula to ‘Aditri Mahantesh Amashi’, born on 2/12/2021.”

11. The Judge’s order is separately signed.

(MANISH PITALE, J.)

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