

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

INDIAN ADOPTION PETITION NO. 40 OF 2022

WITH

JUDGE'S ORDER NO. 78 OF 2022

IN

INDIAN ADOPTION PETITION NO. 40 OF 2022

St. Catherine's Home

...Petitioner

And

1. Tukaram Daga Chaudhari

2. Surekha Tukaram Chaudhari

...Proposed Adopters

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Mr. Rakesh K. L. Kapoor, for the petitioner.

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

Ms. Shonali Dighe, Chamber Registrar.

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CORAM : MANISH PITALE, J

DATE : 2<sup>nd</sup> FEBRUARY, 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

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minor child Lalit. The said child is a Court committed child, born on 6/10/2021 and is in the care and custody of petitioner institution.

2. The prospective adoptive parents are residents of Jalgaon 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 apply to the petitioner for adoption of the minor child. The adoption committee of the petitioner institution has found the prospective adoptive parents eligible and suitable to adopt the minor child, as per criteria specified in Section 57 of the said Act.

3. The minor child was surrendered by the biological parents before the Child Welfare Committee (CWC) and admitted to the petitioner for safe custody on 14/10/2021. On 21/12/2021, the CWC declared the minor child legally free for adoption under Section 38 of the aforesaid Act. Since 4/2/2022, the prospective adoptive parents have been taking care of the minor child, as if the child is their own.

4. The prospective adoptive parents were married on 4/12/1998 and they do not have any biological or adopted child. They have shown their willingness and readiness to adopt the minor child. It is stated that the prospective adoptive father is having his own business

and earns about Rs.35,000/- per month, while the prospective adoptive mother is a home maker. Home study was carried out by a social worker and the report dated 28/6/2021 is on record which recommends the prospective adoptive parents as being suitable to adopt the minor child.

5. Heard Mr. Kapoor, learned counsel appearing for the petitioner in the presence of Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare. Mr. Hareendran has tendered report of the Council, which has also favourably recommended the case of the petitioner for permitting adoption of the said minor child by the prospective adoptive parents. The same is taken on record and marked 'X'.

6. The consent affidavit of the authorized signatory of the petitioner is on record. The prospective adoptive parents state that they have interacted with the child and they have perused the child study report, as also medical report of the minor child. Therefore, it appears that all the statutory requirements are satisfied.

7. 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 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.

8. 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 10/1/2023* 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 30<sup>th</sup> 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. In view of the above, this Court is satisfied that the prayers made in the present petition can be allowed. Accordingly, the petition stands allowed in terms of prayer clauses (a) to (d) which read as follows :

*(a) That the prospective adoptive parents be given the said child Krishna Tukaram Chaudhary in adoption and 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 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 said minor Krushna Tukaram Chaudhari, born on 6/10/2021 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 Lalit to Krushna Tukaram Chaudhari, born on 6/10/2021.*

10. The Judge's order is separately signed.

**(MANISH PITALE, J)**