

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. 34 of 2023
WITH
JUDGE'S ORDER NO. 62 OF 2023

Bal Asha Trust

...Petitioner

And

1. Rohit Gupta

...Co-Petitioners

2. Namita Goel

Proposed Adopters

Mr. Rakesh 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, the Petitioners and Proposed Adoptive Parents have sought for adoption of the male minor Gajendra @ Arman Namita Gupta (**"the said male minor"**).

The said male minor Gajendra was born on 08th November, 2022.

KAVITA
SUSHIL
JADHAV

Digitally signed
by KAVITA
SUSHIL JADHAV
Date: 2023.10.13
11:09:07 +0530

2. The biological mother surrendered the said male minor child before the Child Welfare Committee(CWC), Mumbai City II on 11th November, 2022 and his safe custody was given to the Petitioner Institution on the same day as per the order of the CWC, Mumbai City II dated 11th November, 2022 under the provisions of Juvenile Justice Act, 2015. The Safe Custody Order of the CWC has been placed on record at Page No. 23 to the Petition.

3. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the CWC, Mumbai City II declared the said male minor Gajendra “Legally Free for Adoption” on 18th January, 2023. The Free for adoption Certificate has been placed on record at Page Nos. 21-22 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Bengaluru, Karnataka aged about 41 and 40 years respectively. They have been married for the past 9 years (4th February, 2014) with no biological children. Motivation letter from the Prospective Adoptive Parents is on record at page No.35 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the minor Gajendra is on record at Page Nos. 149-153 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 21st March, 2023 has been placed record at Page Nos.19-20 and the committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.

7. The Health Reports dated 11th October, 2022 of the Prospective Adoptive Parents states, "They are Normal and Fit". Their HIV and HBsAg test reports certify the case as Non Reactive. These Reports are on record at Page Nos. 27-34 to the Petition.

8. The Prospective Adoptive Father is working as a Director, Product Management with Cimpres India Private Limited, Bengaluru since 2018 and his monthly gross salary is Rs.7,91,133/-. His Pay Slip, Form No. 16 and Income Tax Returns for the Assessment Years 2021-22 & 2022-23 have been placed on record at Page Nos. 54-74 to the Petition.

9. The Prospective Adoptive Mother has been working as a Chief Learning Officer with Imagineer Technologies Pvt. Ltd.,

Bengaluru since 2021 and her monthly gross salary is Rs.1,35,133/-. Her Pay Slip, Form No. 16 and Income Tax Returns for the Assessment Year 2021-22 & 2022-23 are placed on record at Page Nos. 75-88 to the Petition.

10. Proof of residence (Rental Lease Agreement), Aadhar and PAN Card copies and supportive financial documents are on record at Page Nos. 36-49 & 89-100 to the Petition.

11. The childcare arrangement plan by the Prospective Adoptive mother is on record at Page No. 101 to the Plaint.

12. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents has been placed on record at Page Nos. 102-117 to the Petition. The Home Study Report Part II : Assessment Report dated 12th May, 2022 by the Social Worker of “St. Michael’s Home/Convent”, Bangalore is on record and the report has found the prospective adoptive parents suitable for adopting a child. The said report is at page Nos. 118-124 to the Petition.

13. The child security undertaking dated 23rd March, 2023 of the Prospective Adoptive father’s brother and sister-in-law residing at Bengaluru to look after the said male minor in case of any mishap of

the Prospective Adoptive Parents has been placed on record at Page Nos. 135-136 to the Petition.

14. Medical Examination Report of the said male minor dated 17th January, 2023 states, "Health Status: Normal. Overall Observation of the child: Gajendra is developmentally normal. He has grown well in the institution". The Proposed Adopters have countersigned the said report. The said Report has been placed on record at Page Nos. 139 to 145 to the Petition.

15. The HIV report of the said male minor dated 7th January, 2023 certifies the case as Non Reactive. The said Report is at Page No. 147 to the Petition. Post Card Size Photograph of the minor is on record at page No.148 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Gajendra' be renamed as "Armaan Namita Gupta".

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of said male minor Gajendra born on 8th November, 2022. This declaration is placed on

record at Page Nos. 50-51 to the Petition.

18. The Pre-adoption foster care Affidavit dated 28th March, 2023 has been placed on record at Pages 52-53 to the Petition.

19. The Undertaking dated 15th March, 2023 given by the Specialized Adoption Agency “St. Michael’s Home/Convent”, Bangalore for furnishing post adoption follow-up report has been placed on record at Page No.154 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 7th 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 7th September, 2023 marked ‘X’, in my view, it would be in the interest of the said male minor child Gajendra, if he is 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 :

“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

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

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 in Adoption be declared as parents and have all parental legal rights, Privileges and responsibilities over the said minor Armaan Namita Gupta.

(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 the said minor Armaan Namita

Gupta born on 8/11/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor

(d) That the Prospective Adoptive Parents be allowed to Change the name of the minor from 'Gajendra' to "Armaan Namita Gupta"

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 the name of the Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipt to the Adopted Child on his becoming a major. This undertaking is accepted as an 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.]