

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. 33 of 2023
WITH
JUDGE'S ORDER NO. 61 OF 2023

Maharashtra State Women's Council Adoption	...Petitioners
And	
1. Rupesh Chandrakant Rasal 2. Vaishali Rupesh Rasal	...Co-Petitioners Proposed Adopters

Ms. Dipal S. Mehta, 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 which the Petitioners and Proposed Adopters have jointly filed, the adoption of the male minor Yuvan @ Parth Rupesh Rasal (“**the said male minor**”) has been sought. The said male minor was born on 11th December, 2022.

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2. The biological mother had surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai City-I on 19th December, 2022 and the said male minor's safe custody was given to the Petitioner's Institution on the same day as per the order of the CWC, Mumbai City-I dated 19th December, 2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The CWC order has been placed on record at Page No. 20 to the Petition.

3. After making due inquiry under Section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City-I declared the said male minor Yuvan "**Legally Free for Adoption**" as on **17th March, 2023**. The Free for Adoption order has been placed on record at Page Nos. 21-23 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Andheri, Mumbai aged about 43 years and 46 years respectively, having been married for the past 14 years (1st November, 2009) with no biological children.

5. The Motivation Letter of the proposed Adopters has been placed on record at Page No. 26 to the Petition.

6. The Affidavit of the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor child has been placed on record at Page Nos. 134-140 to the Petition.

7. The Minutes of Adoption Committee meeting held on 28th June, 2023 is on record at Page Nos. 18-19 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor child.

8. The Medical Report of the Prospective Adoptive Parents dated 12th June, 2023 states, "The health of the prospective adoptive parents do not disqualify them in parenting a child in anyway". Their HIV and HBsAg test reports certifies the case as Non Reactive. The said Reports are on record at Page Nos. 29-36 to the Petition.

9. The Prospective Adoptive father is self-employed. He is sole proprietor of "Virtual System" at Girgaum, Mumbai since 2006 and his income for the Assessment Year 2022-23 is Rs.4,15,600/-. The GST Registration Certificate and Income Tax Returns are record at Page Nos. 48 to 53 to the Petition. The prospective adoptive mother is working as a Deputy Manager, Safety and Quality with Lfonds

Management Pvt. Ltd., Andheri, Mumbai since 1st January, 2021 and her monthly (March-2023) Net salary is Rs.41,666/-. Her Salary Slips, Income Tax Returns and Form No. 16 are on record at Page Nos. 55-65 to the Petition. The proof of residence, copies of PAN card and other supportive financial documents are on record at Page Nos. 40-41, 54, 86 & 66-85 to the Petition.

10. Childcare arrangement plan statement of adoptive mother and her sister-in-law is on record at Page No. 87-89 to the Petition.

11. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 90-96 & 108-113 to the Petition. The Part II: Assessment reports of the Social Worker of “St. Catherine Home”, Andheri, Mumbai (Home visits done on 16th August, 2017 & 1st October, 2020) are on record and the reports have found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are at Page Nos. 97-107 to the Petition.

12. The child security undertaking dated 19th November, 2022 given by the Prospective Adoptive mother’s Niece and her husband residing at Virar, Dist. Palghar, Maharashtra to look after the said

male minor in case of any mishap of the Prospective Adoptive Parents is on record at Page Nos. 131-133 to the Petition.

13. The Pre-adoption foster care undertaking dated 3rd July, 2023 is on record at Page Nos. 45-47 to the Petition.

14. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor.

15. The Prospective Adoptive Parents have further agreed and undertaken to the Petitioner institution and this Court that they will not give the said male minor child in further adoption to anyone residing outside India. The said declaration is placed on record at Page Nos. 42-44 to the Petition.

16. The Medical Examination of the said male minor Yuvaan dated 14th April, 2023 states "Health status of the child : Normal. Overall Observation of the child : A normal, healthy infant." The proposed adopters have countersigned the said report. The said Report is placed on record at Page Nos. 122-127 to the Petition.

17. The HIV report of the minor dated 5th January, 2023 certifies the case as Non Reactive. This report is at Page No. 128 to the Petition. The Post Card Size Photograph of the said male minor is on record at Page No. 25 to the Petition.

18. As regards the change of name, the proposed Adopters desire that the said male minor 'Yuvan' be renamed as "Parth Rupesh Rasal".

19. The undertaking dated 12th June, 2023 given by the authorities of "St. Catherine Home", Andheri, Mumbai for furnishing post adoption follow-up reports is on record at Page No. 130 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 5th May, 2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / representation from the Indian Council of Social Welfare (ICSW) dated 25th 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 6th September, 2023 marked 'X', in my view, it would be in the interest of the said male minor child Yuvan, 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

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

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) This Hon'ble Court may be pleased to appoint the Co-Petitioners, Rupesh Chandrakant Rasal and Mrs. Vaishali Rupesh Rasal as the adoptive parents of the male minor, Yuvan @ Parth Rupesh Rasalm in the care of the Maharashtra State Women's Council Adoption Group at

*Maharashtra State Women's Council Asha Sadan Balgruh,
Asha Sadan Marg, Umderkhadi, Mumbai-400 009 ;*

(b) That the Co-Petitioners be allowed to change the name of the minor 'Yuvan' to 'Parth Rupesh Rasal' ;

(c) That the Co-Petitioners may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor along with them, i.e. to the Co-Petitioners' family wherever they may reside or their Work may require them to ;

(d) That the concerned Municipality/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations."

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 agreed to handover the investment receipt to the Adopted Child on his becoming a major. This undertaking is accepted as 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.]