

Sharada

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

INDIAN ADOPTION PETITION NO. 50 OF 2023

WITH

JUDGE'S ORDER NO. 84 OF 2023

IN

INDIAN ADOPTION PETITION NO. 50 OF 2023

Vatsalya Trust, Mumbai

...Petitioner

And

Mr. Devendra Kemre and Mrs. Kamini Kemre

...Prospective
Adoptive Parents

Mrs. Sangeeta A. Nagpal, Advocate for the Petitioner.

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

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 9ND NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the Petitioner and the Prospective Adoptive Parents, adoption of male minor Virat ("**the said male minor**") born on 27/12/2022 is sought.

2. The biological mother of the said male minor surrendered her child before the Child Welfare Committee (CWC), Mumbai Suburban District on 24/01/2023 and the child's custody was given to the Petition institution Vatsalya Trust, Mumbai on the same day as per the order of the said CWC, Mumbai Suburban District dated 24/01/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 ("the said Act"). The Admission Order of CWC is on record at Page No. 80 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mankhurd, Dist. Mumbai declared the said male minor Virat "Legally Free for Adoption" on 31/03/2023. The Free for Adoption Certificate is on record at page Nos.77-78 to the Petition.

4. The Proposed Adoptive Parents are Indian nationals, residing at Indore, Madhya Pradesh aged about 33 years and 34 years respectively, having been married for the past 7 years (04/02/2016) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on record at Page No. 60 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized

Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos.86-91 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 16/06/2023 is on record and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor. The said minutes of Adoption Committee Meeting is on record at page No.74 to the Petition.

8. The Medical Report of the Prospective Adoptive Parents dated 3/6/2023 states that both are physically fit. Their HIV (I &II) and HbsAg test reports certifies the case as Non Reactive. The said report is on record at page Nos.31-35 to the Petition.

9. The Prospective Adoptive father is working as a Accounts Manager with Adroit Associates Pvt. Ltd., Indore since February, 2005 and his monthly (May-2023) gross salary is Rs.48,072/-. His employment Certificate, Pay slip and Income Tax Returns are on record at Page Nos.37-41 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The copies of Pan Card, Proof of Residence and supportive financial documents are on record at page Nos.25, 27, 36 & 42-47 to

the Petition.

11. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 48-54 to the Petition.

12. The Home Study Part II: Assessment Report dated 10/11/2022 of the Social Worker of “Matruchhaya Sewa Bharati” Indore, Madhya Pradesh is has found the prospective adoptive parents suitable for adopting a child. The said Home Study Report is on record at page Nos.55-58 to the Petition.

13. The child security undertaking dated 20/10/2023 given by the Prospective Adoptive Mother’s brother residing at Indore to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.61-62 to the Petition.

14. The Pre-adoption foster care undertaking dated 03/06/2023 is on record at page No. 81 to the Petition.

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

said male minor Virat. The said declaration can be found at page No.82 to the Petition.

16. The Medical Examination Report of the said male minor dated 25/05/2023 states, “Health status of the child: Normal child. Overall Observation of the child:Up to now his overall development is within normal limits.” The proposed adopters have countersigned the said Report, which is on record at page Nos.66-72 to the Petition.

17. The HIV Report of the said male minor dated 30/01/2023 certifies the case as Negative. This report is at page No.73 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.83 to the Petition.

18. As regards the change of name, the proposed Adopters desire that the said male minor 'Virat' be renamed as “Jakesh Kemre”.

19. The undertaking dated 06/06/2023 given by the authorities of “Matruchhaya Sewa Bharati”, Indore, Madhya Pradesh for furnishing post adoption follow-up reports is on record at page No.85 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 05/07/2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 17th October, 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 marked 'X', in my view, it would be in the interest of the said male minor 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 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 (e) of the Petition, which read thus:-

“(a) For adoption of the Proposed minor Baba Virat @ Jaksh Kemre born on 27th December 2022 by the Proposed Adopters under Juvenile Justice Act

(b) For declaring the Proposed Adopters as Adoptive Parents of the Said minor and shall have all parents rights, privileges and responsibilities over the said minor Baba Jaksh Kemre

(c) That the Proposed Adopters be granted permission to change the name of minor Virat to Jaksh Kemre

(d) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Jaksh Kemre, born on 27th December 2022 and stating thereon that the Prospective Adoptive Parents Parents as the Parents of the said minor.

(e) 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.

26. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the name of Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipt to the Adopted Children on his becoming a major. This undertaking is accepted as an undertaking to this Court.

27. The Judge's Order is also separately signed.

28. The present Indian Adoption Petition is accordingly, disposed of.

29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]