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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS GENERAL AND INHERENT JURISDICTION
INDIAN ADOPTION PETITION NO.40 OF 2023
WITH
JUDGE'S ORDER NO.70 OF 2023

St. Catherine's Home, Mumbai

...Petitioner

Mr. Swapnil Vivek Abhyankar
Mrs. Shalaka Swapnil Abhyankar

...Prospective
Adoptive Parents

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

Mr. O.Hareendran, Scrutiny Officer is present.

Mr. Dilip Gurav, Chamber Registrar is present.

CORAM : R.I. CHAGLA J.
DATE : 19TH OCTOBER, 2023.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Kamakshi ("the said female minor").

2. The said female minor was born on 25/06/2022 and admitted to the Petitioner institution on 18/07/2022 as per the order of the Child Welfare Committee, (CWC), Mumbai Suburban District-II, dated 18/07/2022 under the provisions of Juvenile Justice (Care

and Protection of Children) Act, 2015. Thereafter the biological mother executed a Deed of Surrender before the said CWC on 25/07/2022 for the child's permanent rehabilitation. The Admission Order of the CWC is placed on record at page 22 to the Petition.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) the CWC, Mumbai Suburban District declared the said female minor Kamakshi "Legally Free for Adoption" on 07/10/2022. The Free for adoption order is placed on record at page 21 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Matunga, Mumbai, both aged about 38 years having been married for the past 9 years (24/05/2014) with no biological children.

5. The Motivation Letter from the Prospective Adoptive Parents is placed on record at page 30 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 14/12/2022 is on record at page Nos. 19-20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is placed on record at pages 104-108 to the Petition.

8. The Medical report of the Prospective Adoptive Parents dated 17/06/2023 states, "They do not have any medical illness and both are fit to adopt. Their Test findings for HIV I & II and Hepatitis B are Negative". The said reports are placed on record at pages 26-29 to the Petition.

9. The Prospective Adoptive Father is working as a Branch Manager with TJSB Sahakari Bank Ltd., Thane since 3rd May 2021 and his monthly (May-2023) gross salary is Rs. 1,32,019/-. His pay slip and Tax returns are on record at pages 38-44 to the Petition.

10. The Prospective Adoptive mother is working as a Talent Acquisition Specialist with Godrej Industries Ltd., Vikhroli, since 17/01/2022 and her monthly (May-2023) gross salary is Rs. 1,06,923/-. Her Pay slip and Tax Returns are placed on record at pages 45-51 to the Petition.

11. The Proof of Residence, copies of Pan Cards and

other supportive financial documents are placed on record at pages 31-33 & 52-63 to the Petition.

12. The Child Care Plan declarations by the Prospective Adoptive mother and her mother-in-law are placed on record at pages 64-66 to the Petition.

13. The Home study report Part I: Self Assessment by the Prospective Adoptive Parents is placed on record at pages 67-74 to the Petition.

14. The Home Study Report Part II: Assessment report dated 20/08/2020 of the social worker of Specialized Adoption Agency, “Shree Manav Seva Sangh”, Sion, Mumbai has found the Prospective Adoptive Parents suitable for adopting a child. The said report is placed at pages 75-78 to the Petition.

15. The child security undertaking dated 23/12/2022 given by the Prospective Adoptive Father’s sister and brother-in-law residing at Matunga, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is placed on record at pages 88-89 to the Petition.

16. The Medical Examination Report of the said female minor dated 07/01/2023 states that the said female minor has achieved most of the milestones expected for her age. The Prospective Adoptive Parents have countersigned the Medical Examination Report. The said report is placed on record at pages 93-100 to the Petition.

17. As regards the change of name, the Adoptive Parents desire that the said female minor 'Kamakshi' be renamed as "Adhira Swapnil Abhyankar".

18. The HIV test report of the said female minor dated 21/07/2022 certifies the case as "Negative". This report is placed on record at page 102 to the Petition. The Post Card Size Photograph of the said female minor is at page 103 to the Petition.

19. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of said female minor. This Declaration is at page No. 34-35 to the Petition.

20. The Pre-adoption foster care undertaking dated

23/12/2022 is placed on record at pages 36-37 to the Petition.

21. The undertaking dated 05/12/2022 given by the authorities of “Shree Manav Seva Sangh” Sion, Mumbai for furnishing post adoption follow-up reports is placed on record at page 109 to the Petition.

22. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

23. O. Hareendran, the Scrutiny Officer has tendered his report / representation of Indian Council for Social Welfare dated 16th October, 2023 which is taken on record and marked ‘X’ for identification.

24. Having considered the material on record as well as the report of the Scrutiny Officer marked ‘X’, I am of the view that it is in the interest of the said female minor to be adopted by the Prospective Adoptive Parents.

25. It is relevant to note here that in the case of ***Nisha Pradeep Pandya @ 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, passed an interim order dated 10th January, 2023. The relevant portion of the 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.”

¹ W.P.(L) No.32065 of 2022

26. Thus, there is no impediment in granting the relief sought for in the Petition.

27. In the circumstances, the Indian Adoption Petition is allowed in terms of prayer Clauses (a) to (d), which read as under :

(a) That the Prospective Adoptive Parents be given the said child Adhira Swapnil Abhyankar 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 Adhira Swapnil Abhyankar 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 Adhira Swapnil Abhyankar, born on 25/06/2022 and stating thereon thereon that the Prospective Adoptive Parents are the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from 'Kamakshi' to "Adhira Swapnil Abhyankar".

28. There is an undertaking of the Adoptive Parents in the Judge's Order to invest a sum of Rs.2 lakh in the name of the Adopted Child till the Adopted Child attains the age of majority. The Adoptive Parents further agree to handover the investment receipts to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.
29. The Judge's Order is separately signed.
30. The Indian Adoption Petition is accordingly disposed of. There shall be no order as to costs.
31. This order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this Order.

[R.I. CHAGLA J.]