

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. 46 of 2023
WITH
JUDGE'S ORDER NO. 80 OF 2023

Bal Asha Trust

...Petitioner

And

1. Nitin Prabhakar Srigiri
2. Pooja Nitin Srigiri

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i/b M/s. Rakesh K.L. Kapoor & Co., Advocate for the Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 2ND NOVEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the Petitioner and Prospective Adoptive Parents, the adoption of female minor minor Mahira (“**the said female minor**”) has been sought. The said female minor was born on 14th September, 2022.

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2. The biological parent of the said female minor child surrendered her before the Child Welfare Committee (CWC), Mumbai City-II on 27/09/2022 and thereafter the said female minor's safe custody was given to the Petitioner Institution on the same day as per the order of the CWC, Mumbai City-II, dated 27/09/2022 for further care and rehabilitation under the provisions of Juvenile Justice (Care and Protection of Children) Act 2015 ("the said Act"). The admission order of the CWC is on record at Page No.25 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said female minor "Legally Free for Adoption" on 28/11/2022. The Free for adoption Certificate is on record at page 21-24 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Solapur, Maharashtra aged about 37 and 32 years respectively. They have been married for the past 11 years (27/12/2012) with no biological children.

5. Motivation letter from the Prospective Adoptive Parents is on record at Page No. 34 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor Mahira is on record at Page Nos. 122-126 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 06/01/2023 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.

8. The Health reports dated 26/07/2022 of the Prospective Adoptive Parents states, "They do not have any physical or mental condition which would impair their ability for an adoptive child". Their HIV and HBsAg test reports certify the case as Non Reactive. These reports can be found at Pages 29-33 to the Petition.

9. The Prospective Adoptive Father is working as a Clerk with Bank of Maharashtra, Solapur Branch since 2011 and his monthly (August-2022) gross salary is Rs.72,039.10/-. His salary certificates, Form No. 16 and Income Tax Returns are on record at Page Nos. 43-54 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. Proof of residence, PAN Card copies and supportive

financial documents are on record at Page Nos. 35-37 & 55 to the Petition.

11. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 56-71 to the Petition.

12. The Home Study Report part II : Assessment Report dated 21/08/2019 and 23/08/2022 by the Social Worker of “Pakhar Sankul Balgruh”, Solapur, Maharashtra have found the prospective adoptive parents suitable for adopting a child. The said report are on record at Page Nos.72-83 to the Petition.

13. The child security undertaking dated 18/08/2022 of the Prospective Adoptive father’s brother and sister-in-law residing at Solapur to look after said female minor in case of any mishap to the Prospective Adoptive Parents is on record at Page No. 91-94 to the Petition.

14. Medical Examination Report dated 16/11/2022 of the said female minor child states “Health Status: Normal. Overall Observation of the child : Mahira is developmentally normal and has grown well in the institution”. The Prospective Adopters have

countersigned the said Report. The said Report is on record at Page Nos. 97-103 to the Petition.

15. The HIV report of the said female minor dated 22/11/2022 certifies the case as Non Reactive. The said report is at Page No. 105 to the Petition. Post Card Size Photograph of the minor is on record at Page No. 106 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Mahira' be renamed as "Mayra Nitin Srigiri".

17. The Declaration of consent and undertaking 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 said female minor Mahira. This declaration is at Page Nos. 38-39 to the Petition.

18. The Pre-adoption foster care Affidavit dated 12/01/2023 is on record at Pages 40-42 to the Petition.

19. The Undertaking dated 19/12/2022 given by the Specialized Adoption Agency "Pakhar Sankul Balgruh" Solapur for

furnishing post adoption follow-up reports is on record at Page No. 112 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 05/05/2025.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 19th 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 dated 19th October, 2023 marked 'X', in my view, it would be in the interest of the said female minor Mahira, if she 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

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

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 (d) of the Petition, which read thus:-

“(a) That the Prospective Adoptive Parents be given the said child in Adoption be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor Mayra Nitin Srigiri.

(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 Mayra Nitin Srigiri born on 14/09/2022 and stating thereon that the the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parent be allowed to change the name of the minor from ‘Mahira’ to “Mayra Nitin Srigiri”.”

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

27. 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 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 her 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.]