

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. 47 of 2023
WITH
JUDGE'S ORDER NO. 81 OF 2023

Bal Asha Trust

...Petitioner

And

1. Pramod Dattaram Ghadi
2. Pari Pramod Ghadi

...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 male minor Eshaan (“**the said male minor**”) has been sought. The said male minor was born on 20th August, 2022.

KAVITA
SUSHIL
JADHAV

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2. The biological parent surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai City-II on 25/08/2022 and the said male 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 25/08/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act 2015 ("the said Act"). The Safe Custody Order of the CWC is on record at Page No.23 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said male minor **"Legally Free for Adoption" on 28/10/2022**. The Free for adoption Certificate is on record at Page **21-22** to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Pune aged about 43 and 38 years respectively. They have been married for the past 14 years (21/12/2008) with no biological children.

5. Motivation letter from the Prospective Adoptive Parents is on record at Page No.33 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. 122-126 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 16/12/2022 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 male minor.

8. The Health Reports dated 26/11/2022 of the Prospective Adoptive Parents states, "They do not suffer any chronic, contagious or fatal disease and are physically and mentally fit to adopt a child". Their HIV and HBsAg test reports certify the case as Negative. These Reports can be found at Pages 27-32 to the Petition.

9. The Prospective Adoptive Father is working as a Graphic Designer with Peak Pacific Knowledge Private Limited, Pune since 01/12/2018 and his monthly (October-2022) gross salary is Rs.65,470/-. His Income Tax Returns for the Assessment Year 2021-22 & 2022-23 and Pay slips are on record at Page No 42-46 to the Petition.

10. The Prospective Adoptive Mother is working as an Officer (Sub Account) with Pune Merchants Co-operative Bank Ltd., Pune

since 17/06/2013 and her monthly gross salary is Rs.36,856/-. Her Income Tax Return for the Assessment Year 2021-22 & 2022-23 and Salary Certificate are on record at Page No 47-49 to the Petition.

11. Proof of residence, Pan Card copies and supportive financial documents are on record at Page Nos. 34-36 & 50-57 to the Petition.

12. The childcare arrangement plan statement from the Prospective Adoptive mother is on record at Page No. 58 to the Petition.

13. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 59-68 & 81-92 to the Petition.

14. The Home Study Report Part II: Assessment Report dated 07/06/2019 and 10/08/2022 by the Social Worker of “SOFOSH – Society of Friends of the Sassoon Hospitals” Pune found that the Prospective Adoptive Parents to be suitable for adopting a child. The said Reports are on record at Page Nos.69-80 & 93-102 to the Petition.

15. The child security undertaking dated 20/12/2022 of the Prospective Adoptive father's brother and sister-in-law residing at Pune to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos.108-109 to the Petition.

16. The Medical Examination Report dated 16/11/2022 of the said male minor is on record at Page Nos. 112-118 to the Petition and it states, "Health Status: Normal. Overall Observation of the child: Eshaan is developmentally normal. He has grown well in the institution". The proposed adopters have countersigned the said report.

17. The HIV report of the said male minor dated 07/11/2022 certifies the case as Non Reactive. The said Report is at Page No. 120 to the Petition. Post Card Size Photograph of the said male minor is on record at Page No. 121 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Eshaan' be renamed as "Raghav Pramod Ghadi".

19. 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 the said male minor. This declaration is at Page Nos. 37-39 to the Petition.

20. The Pre-adoption foster care Affidavit dated 20/12/2022 is on record at Pages 40-41 to the Petition.

21. The Undertaking dated 19/12/2022 given by the Specialized Adoption Agency “SOFOSH – Society of Friends of the Sassoon Hospitals” Pune for furnishing post adoption follow-up reports is on record at Page No. 127 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. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 21st September, 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 dated 21st September, 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.

25. 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."*

26. Hence, it is clear that this Court can consider and dispose of the present Petition.

27. 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 Raghav Pramod Ghadi.

(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 **Raghav Pramod Ghadi** born on 20/08/2022 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 '**Eshaan**' to "**Raghav Pramod Ghadi**".*

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

29. 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 his becoming a major. This undertaking is

accepted as an undertaking to this Court.

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

31. There shall be no orders as to costs.

[R.I. CHAGLA, J.]