

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

FOREIGN ADOPTION PETITION NO. 23 OF 2022
WITH
JUDGE'S ORDER NO. 91 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 23 OF 2022

Shraddhanand Mahilashram

through Kshama Joshi

...Petitioner

And

William Ryan Clements and

Sara Beth Clements, American Nationals

...Proposed Adopters

Mr. Rakesh Kapoor, for the petitioner.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.

Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J

DATE : 20th JANUARY, 2023

P.C. :

. By this petition, the petitioner being a recognized agency for adoption by the State Government and Central Adoption Resource Authority (CARA), New Delhi, has approached this Court seeking an order for adoption of a minor girl child Urvashi alias Urvashi Jade Clements by the proposed adopters.

2. Heard Mr. Kapoor, the learned counsel for the petitioner and

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare. He has tendered report of the said council in the context of the present petition. The same is taken on record and marked 'X'.

3. It is stated in the petition that the minor child Urvashi was born to an unwed mother on 11/7/2018 and admitted to the petitioner institution on 20/7/2018. On 25/7/2018, the Child Welfare Committee (CWC), Mumbai City II recognized the admission of the child with the petitioner institution. Thereafter, on 6/3/2020, the biological mother of the child relinquished her child before the CWC and the CWC, in exercise of powers vested in it under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, has declared the minor legally free for adoption. The CARA has issued its no objection certificate for adoption of the minor child, which is placed on record. The proposed adopters are American Nationals, having been married for the past 16 years with no biological children. They adopted one girl from India aged about 8 years. It is further stated that the proposed adoptive father was married earlier and later divorced on 14/6/2004 and he did not have any issue from that marriage. It is stated that the proposed adopters are medically fit and certificates to support the said statements are placed on record. Copies of other relevant documents, including passports, marriage certificate etc. are also placed on record. It is stated that the prospective father is receiving a disability payment of

\$25,776 per annum while prospective adoptive mother is working as a Controller with Berea College, Kentucky USA and her annual salary is US \$98,700 per year. Copies of certificate of employment and income tax returns are also placed on record.

4. The home study report of the proposed adopters conducted by the authorities of 'America World Adoption', Kentucky, USA, is placed on record, which recommends the proposed adopters as suitable adoptive parents and capable of taking care of the minor child. It is stated that the proposed adopters have seen the photograph of the minor child and they have verified her medical status. Copies of documents pertaining to the medical status of child are also placed on record.

5. The report submitted on behalf of the Indian Council of Social Welfare supports the assertions made in the petition. Hence, this Court is satisfied that the present petition deserves to be allowed.

6. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors. in Writ Petition No.32065/2022 on 10/1/2023*, has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending herein can be placed

before the concerned Court and that adjudication of such matters can continue during the pendency of challenge raised against the Amendment Act. 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.”

7. In view of the above, this Court is satisfied that the prayers made in the present petition can be allowed. Accordingly, the petition stands allowed in terms of prayer clauses (a) to (e) which read as follows :

(a) For the Adoption of the female minor Urvashi Jade Clements born on 11/7/2018 by the proposed Adopters under Section 59(7) of the Juvenile Justice Act, 2015.

b) For declaring the Proposed Adopters as Adoptive Parents of the minor Urvashi Jade Clements having all parental rights, privileges and responsibilities over the said child, now in the care and custody of the petitioner Shraddhanand Mahilashram, Shraddhanand Road, Matunga, Mumbai – 400 019.

(c) That the proposed adopters be allowed to change the name of the minor ‘Urvashi to ‘Urvashi Jade Clements ’.

(d) Leave / permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Urvashi Jade Clements, born on 11/7/2018 and stating thereon that the Proposed Adopters are the Parents of the said minor.

(e) That the Proposed Adopters may be granted leave to remove the said child from the jurisdiction of this Hon’ble Court and to take the said minor to USA or wherever they may reside in future.

8. The Judge’s order is separately signed.

(MANISH PITALE, J)