

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

FOREIGN ADOPTION PETITION NO. 21 OF 2022
WITH
JUDGE'S ORDER NO. 88 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 21 OF 2022

Shraddhanand Mahilashram

through Kshama Joshi

...Petitioners

And

Sergio Tartaglia &

Christabel Tartaglia, Maltese Nationals

...Proposed Adopters

Mr. Rakesh Kapoor i/by. Rakesh L. Kapoor & Co. for petitioners.

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 male child Aditya alias Thiago Tartaglia 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 aforesaid minor child Aditya was born to an unwed mother on 15/2/2021 and admitted to the petitioner institution on 16/4/2021 as per the order of the Child Welfare Committee (CWC), Mumbai City-I. Thereafter, on 7/5/2021, the biological mother of the child relinquished her child before 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 Maltese Nationals aged about 35 and 34 years respectively. They get married in 2017 and they do not have any biological children. They wish to adopt the minor child and they stated that medically they are in good health. The marriage certificate as well as health reports of the proposed adopters are also placed on record.

4. This Court has perused the contents of the petition and the report submitted by the Scrutiny Officer of the Indian Council for Social Welfare. It is confirmed that the proposed adopters are sufficiently financially capable of taking care of minor child. It is specifically stated that the prospective adoptive father is working as a

Team Manager (Information Resources) with Environment & Resources Authority, Marsa, Malta and his gross salary (January 2022) is Euro 3237.890. The prospective mother is working as a Senior Statistician with National Statistics Office, Malta and her gross salary is Euro 2453.850.

5. The home study report of the proposed adopters conducted by the authorities of 'Agenzija Tama', San Gwann, Malta is placed on record, which recommends the proposed adopters as suitable adoptive parents being capable of taking care of the minor child. It is stated that the proposed adopters have seen the photograph of the minor child alongwith medical reports and they have fully accepted the same.

6. This Court is satisfied that all the necessary parameters for granting the prayers in the present petition are sufficiently fulfilled and necessary material is placed on record.

7. 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 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.”

8. 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 male minor Thiago Tartaglia born on 15/2/2021 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 Thiago Tartaglia having all parental rights, privileges and responsibilities over the said minor, 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 'Aditya' to 'Thiago Tartaglia'.

(d) Leave / permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Thiago Tartaglia, born on 15/2/2021 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 Malta or wherever they may reside in future.

9. The Judge's order is separately signed.

(MANISH PITALE, J)