

Manoj Wakle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO.56 OF 2023
WITH
JUDGE'S ORDER NO. 92 OF 2023
IN
INDIAN ADOPTION PETITION NO.56 OF 2023

Family Service Centre

...Petitioner/
Applicant

And

Mr. Sambhaji Shivaji Tagad and
Mrs. Shital Sambhaji Tagad

...Prospective
Adoptive Parents

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

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 7TH DECEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of male

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minor Abhir (“**the said male minor**”) born on 03rd August, 2022 is sought. The birth mother surrendered the said male minor child before the Child Welfare Committee (CWC), Mumbai City-I on 12/08/2022 and the said male minor’s custody was given to the Petitioner Institution on the same day as per the order of the said CWC dated 12/08/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The Custody Order of CWC is on record at Page No. 22 to the Petition.

2. After making due inquiry under Section 38 of said Act, the CWC, Mumbai City II declared the said male minor “Legally Free for Adoption” on 07/11/2022. The Free for adoption Certificate is on record at Page No. 21 to the Petition.

3. The Prospective Adoptive Parents are currently residing at Gondia, Maharashtra, aged about 42 and 34 years respectively, having been married for the past 18 years (10/05/2005) with one biological daughter aged about 7 years. Her Birth Certificate and consent letter are on record at Page Nos. 29-31 to the Petition. The Medical Report dated 12/12/2022 states, “Found to be free from any signs of symptom suggesting any physical, medical disease at present.” The said Medical Report is on record at Page No.32 to the

Petition.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at Page No. 38 to the Petition.

5. 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. 118-122 to the Petition.

6. The Minutes of the Adoption Committee Meeting held on 26/12/2022 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.

7. The Health Report dated 13/12/2022 of the Prospective Adoptive Father states that “He is physically and mentally fit to adopt the child”. His HIV & HBsAg test report certify the case as Non Reactive. The said Reports are on record at Page Nos. 33-34 to the Petition.

8. The Health Report dated 26/12/2022 of the Prospective Adoptive Mother states, “She is under treatment for chronic Hepatitis B at the Department of Gastroenterology, KEM Hospital. She is in

good physical and mental health to adopt and raise a child after vaccinating the child”. Her HIV test report certify the case as Non Reactive and HBsAg-Hepatitis B Surface antigen test report certifies the case as Reactive. The said report can be found at Page Nos. 35-37 to the Petition.

9. The Prospective Adoptive Father is working as an Assistant Police Inspector since 18/06/2005 and presently posted at Superintendent of Police, Gondia and his monthly (July-2023) gross salary is Rs.1,00,255/-. His Pay Slip and Form No.16 are on record at Page Nos. 50-60 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence, Pan Card copies and supportive financial documents are on record at page Nos. 39-43 & 61-66 to the Petition.

11. The Home Study Report Part I : Self Assessment by the Prospective Adoptive Parents is on record at Page Nos.67-80 to the Petition.

12. The Home Study Report Part II : Assessment report dated 18/08/2020 by the Social Worker of Specialized Adoption Agency,

“Janani Ashish Charitable Trust”, Dombivli, Dist. Thane has found the Prospective Adoptive Parents suitable for adopting a child. The said report can be found at Page Nos. 81-88 to the Petition.

13. The latest Home Study Report dated 08/11/2022 from District Child Protection Officer, District Child Protection Cell, Gondia is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child.

14. The learned Counsel appearing for the Petitioner has tendered a Compilation comprising of the said Home Study Report dated 08/11/2022 and undertaking to send follow up report by the Petitioner (Family Service Centre) dated 27/12/2022, which Compilation is taken on record and marked “X” for identification.

15. The child security undertaking dated 20/12/2022 given by the Prospective Adoptive Father’s brother and sister-in-law residing at Beed, Maharashtra to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record. The said undertaking is on record at Page Nos. 100-103 to the Petition.

16. The Medical Examination Report dated 10/01/2022 of the said male minor states, “Status of the child: Normal. Overall

Observation of the child: Appropriate for age, weight curve parallel, Anemia (mild)". The Proposed Adopters have countersigned the said report which is on record at Page Nos. 107-113 to the Petition.

17. The HIV report of the said male minor dated 21/11/2022 certifies the case as Negative. The said report is on record at Page No. 116 to the Petition. The Post Card Size Photograph of the said male minor is on record at Page No.117 to the Petition.

18. As regards the change of name, the Prospective Adoptive parents desire that the said male minor 'Abhir' be renamed as "Krishna Sambhaji Tagad".

19. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said male minor. The Declaration is at Page Nos. 44-46 to the Petition.

20. The Pre-adoption foster care undertaking dated 27/12/2022 is on record at page Nos. 47-49 to the Petition.

21. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Abhir' be renamed as 'Krishna

Sambhaji Tagad”.

22. The undertaking dated 27/12/2022 given by the authorities of “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane for furnishing post adoption follow-up reports is on record at Page No. 123 to the Petition.

23. 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.

24. The Scrutiny Officer, Mr. O. Hareendran has tendered the Report/Representation from the Indian Council of Social Welfare dated 27/11/2023 which is taken on record and marked “Y” for identification.

25. Having considered the material on record as well as the Report of the Scrutiny Officer which is marked “Y”, for identification, I am of the view that it would be in the interest of the said male minor child that he is adopted by the Prospective Adoptive Parents.

26. 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

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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.”*

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

28. 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 and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor Krishna Sambhaji Tagad.

(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 Krishna Sambhaji

Tagad born on 23/01/2023 and stating thereon that the Prospective Adoptive Parents are the parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from 'ABHIR' to "Krishna Sambhaji Tagad " born on 03/08/2022."

29. The Judge's Order is accepted and signed separately.

30. There is an undertaking of the Adoptive Parents in the Judge's Order to invest a sum of Rs.1,00,000/- (Rupees One Lakh only) in the Adopted Child's name. They also undertake not to withdraw this investment till the Adopted Child attains the age of majority. They have agreed to handover the investment receipt to the Adopted Child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

31. The present Indian Adoption Petition is accordingly, disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]