

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

INDIAN ADOPTION PETITION NO. 6 OF 2023

WITH

JUDGE'S ORDER NO. 7 OF 2023

IN

INDIAN ADOPTION PETITION NO. 6 OF 2023

Nisha Pradeep Pandya

alias Nisha Amit Gor

...Applicant /

Biological Mother / Petitioner No.2

and

1) Pradeep Baijnath Pandya

2) Nisha Pradeep Pandya

...Prospective adoptive
Parents

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Mr. Sameer K. Sawant, for the petitioners.

Ms. Vandana Chincholkar, Scrutiny Officer, Indian Council of Social
Welfare.

Ms. Shonali Dighe, Chamber Registrar.

CORAM : MANISH PITALE, J

DATE : 9th MARCH, 2023

P.C. :

. By this petition, filed under the provisions of Juvenile Justice
(Care and Protection of Children) Act, 2015, the petitioners are
seeking to adopt Nirmal, who is the biological child of one of the
petitioner before this Court i.e. petitioner No.2 – Nisha Pradeep
Pandya. The petitioner No.2, being the biological mother intends to

give the child in adoption in the backdrop of facts stated in the petition.

2. The said child Nirmmit was born on 19/9/2004 and copy of birth certificate is placed on record. The petitioner No.2, being the biological mother of said Nirmmit, was earlier married to one Amit Gor on 7/7/2003 and from the said marriage two sons were born i.e. Nirmmit and Chaitanya. The said marriage was dissolved by consent decree on 22/4/2015. The copy of said judgment is placed on record with the petition. It is also stated that the petitioner No.1 was earlier married to one Priya Kansara on 13/2/2007, but their marriage ended in consent decree of dissolution dated 15/9/2014. The copy of said judgment is placed on record. There was no child out of said marriage.

3. Subsequently, on 15/3/2017, the petitioners got married. There were two applications filed before the Bombay City Civil Court by the petitioners to adopt the minor biological children of petitioner No.2, Nirmmit and Chaitanya. It is brought to the notice of this Court that by an order dated 18/9/2021, passed in Adoption Petition No.140/2021, Bombay City Civil Court allowed the petition and thereby Chaitanya was adopted by the petitioners. But, since Nirmmit was more than 15 years of age, the petition filed before the Bombay City Civil Court was withdrawn and the order pertaining to the same is also placed on record.

4. It is in this backdrop that the present petition is filed for adoption of Nirmith. Since the petitioner No.2 is the biological mother of the said Nirmith, the prayers in the petition also request for transfer of child Nirmith to the step father i.e. petitioner No.1.

5. Mr. Sawant, learned counsel appearing for the petitioners, relied upon the material placed on record with the petition in support of prayers made therein. Ms. Chincholkar, Scrutiny Officer of the Indian Council of Social Welfare has tendered report of the Council. The same is taken on record and marked 'X1'. The said report also favorably recommends the adoption of child Nirmith. The material placed on record specifically indicates that the prospective adoptive father is well qualified and presently self-employed in the field of media and public relations and his annual income is about Rs.30 Lakhs. The petitioner No.2, being the biological mother, is also qualified and she is presently working as a Journalist with CNBC TV18 and her annual income is stated to be about Rs.9 Lakhs. The copies of relevant documents alongwith copies of Income Tax certificates are placed on record. The recommendation letters issued by relatives and friends in favour of petitioners are also placed on record.

6. The home study report in the context of the petitioners, carried out by the social worker of District Child Protection Unit, is on record. The said report also favourably recommends the case of the

petitioners in the context of the prayers made in the present petition. It is significant that CWC Mumbai – Suburban – II has issued a certificate giving its consent for the adoption and declaring the child free for adoption by the petitioners.

7. This Court interacted with the petitioners as well as child Nimit and found that child is positively disposed towards petitioner No.1 and that therefore, the petition can be allowed in terms of the prayers made therein.

8. The report submitted by the Indian Council of Social Welfare supports the assertions made in the petition. The prospective adoptive parents undertake to invest sum of Rs.2 Lakhs in LIC's Single Premium Endowment Policy, in the name of the minor child. They will not withdraw the said invested amount till he attains the age of majority.

9. 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.”

10. In view of the above, the petition is allowed in terms of prayer clauses (a) and (b), which read as follows:

a. That the legal relationship of father/mother of above named child Nirmal may please be transferred to the step father (PRADEEP BAIJNATH PANDYA) adopting the

child alongwith the biological mother (NISHA PRADEEP PANDYA) and they be declared as the parents of the said minor for all purposes allowed by law.

b. That the concerned Municipal Authority may be directed to issue Birth Certificate within five working days from the date of application of the Applicant, as per the provision of regulation 35 of the Adoption Regulation of the said minor NIRMITE by deleting name of Amit Mulshankar Gor as father and Nisha Amit Gor as mother and by showing the prospective parents PRADEEP BAIJNATH PANDYA and NISHA PRADEEP PANDYA as the adoptive father and mother, respectively.

11. Judge's order is signed separately.

(MANISH PITALE, J)