

Sharada

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

INDIAN GUARDIANSHIP PETITION NO. 3 OF 2023

WITH

JUDGE'S ORDER NO. 85 OF 2023

IN

INDIAN GUARDIANSHIP PETITION NO. 3 OF 2023

Prem Apar Singh and Priyanka Kumar ...Petitioners

And

Nayantara Kumara and Kiara Amaris Kumar ...Prospective
(Female Minor) Adoptive Parents

Mr. Rakesh Kappor i.by Mr. Rakesh K. Kapoor, Advocate for the
Petitioner.

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

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 9ND NOVEMBER, 2023.

ORDER :

1. By this Indian Guardianship Petition, the Petitioners have
sought for their appointment as guardian of the proposed minor

Kiara ('the said minor') born on 01/02/2015 at Mumbai. Further, the Petitioner has sought leave to be granted for removing the said minor outside the jurisdiction of this Court and to take the said minor wherever required. Dispensation of notice under Section 11 of the Guardians and Wards Act, 1890 has also been sought.

2. The said minor was born out of wedlock to the Respondent Ms. Nayantara Kumar. The said Respondent is the younger sister of Mr. Priyanka Kumar, the Petitioner No.2 herein. The putative father refused to take on any responsibilities of the said minor child and left the mother and child. Thereafter the Respondent and the said minor stayed with the support of the Petitioner No.2. The said minor child has thereafter been looked after by the Petitioners and is well adjusted with them.

3. The Respondent feels that by allowing her daughter to be adopted by her sister and brother-in-law, the Petitioners herein, is in the best interest of the said minor child and will provide the said minor with the opportunity for a stable, loving and nurturing environment. The Petitioners have accordingly decided to take the said minor under legal guardianship with the consent of the Respondent.

4. The Consent Affidavit of the Respondent (biological mother) dated 06/09/2023 is on record at page Nos.55-57 to the Petition.

5. The Birth Certificate of the said minor Kiara issued by the Municipal Corporation of Greater Mumbai is on record at page No.58 to the Petition.

6. The Petitioners are Indian Nationals residing at Colaba, Mumbai, aged about 38 and 35 years respectively. They have been married for the past 7 years (03/10/2016) with no biological children.

7. The Medical Fitness certificates of the Petitioners dated 19/08/2023 is on record and it states, "They are found to be in good physical, medical and mental health conditions". Their HIV and HbsAg test reports certify the case as Non-reactive. These Reports are on record at page Nos.21-24 to the Petition.

8. The motivation letter of the Petitioners is on record at page No.25 to the Petition.

9. The first Petitioner is self-employed (business of Stock Trading and Stock Training Courses) and his income for the Assessment Year 2023-24 is Rs.4,99,100/-, His Income Affidavit and the Income Tax Returns are on record at page Nos.29-33 to the Petition.

10. The second Petitioner is working as an Associate Director with Iksala Pvt. Ltd., Marol, Mumbai and her income for the Assessment Year 2023-24 is Rs.28,01,490/-. Her Income Affidavit, Employment Offer Letter with Remuneration details and Income Tax Returns are on record at page Nos.34-38 to the Petition.

11. The Petitioners Proof of Residence, PAN Card Copies and Supportive Financial Documents are on record at page Nos.26-28 & 39-41 to the Petition.

12. The Childcare Arrangement Plan declaration by the Petitioners is on record at page No.42 to the Petition.

13. The Home Study Report dated 29/08/2023 by the Social Worker Ms. Clipsy Banji, BA, MSW, PGPDm has found the Petitioners suitable for taking the said minor child Kiara in guardianship. This report is at page Nos.43-47 to the Petition.

14. The Child Security undertaking dated 06/09/2023 given by the sister of Petitioner No.2, residing at Colaba, Mumbai to look after the said minor in case of any mishap to the Petitioners is on record at page Nos.52 -54 to the Petition.

15. The Medical Certificate dated 19/09/2022 of the said minor states, "She is found to be physically and mentally fit and free from any illness". Her HIV and HbsAg test reports certify the case as Non Reactive. The said reports are on record page Nos.59-60 to the Petition.

16. The Consent Letter and Post Card Size photograph of the said minor is on record at page Nos.61-62 to the Petition.

17. The consent and undertaking of the Petitioners is on record at page No.63 to the Petition. This states that the Petitioners have consented to the legal guardianship and they agree and undertake to do all such acts, deeds and things as may be necessary in the interest of the mental and physical welfare of the said minor child.

18. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW)

dated 02/11/2023 which is taken on record and marked 'X' for identification.

19. Having considered the material on record as well as the Report of the Scrutiny Officer dated 02/11/2023 marked 'X', the relief sought of the Petition is required to be granted.

20. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (c) of the Petition, which read thus:-

“(a) That this Hon’ble Court may be pleased to appoint the Petitioners as legal guardians of person of the said minor Kiara Amaris Kuar, born on 1st day of February, 2015.

(b) That the Notice under Section 11 of the Guardians and Wards Act, 1890 is dispensed with.

(c) That the Petitioners may be granted leave to remove the said minor outside the jurisdiction of this Hon’ble Court and to take the said minor whenever required.”

21. In the Judge’s Order there is an undertaking of the Petitioners to adopt the said minor within two years of their guardianship as per the judgment dated 27th October, 1999 of the

then Justice Shri F. I. Rebello (2000 ALL MR 39). Further, the Petitioners have undertaken to invest an amount of Rs.1,00,000/- (Rupees One Lakh only) in the name of the said minor in any Nationalized Bank. This undertaking is accepted as an undertaking to this Court.

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

23. The present Indian Guardianship Petition is accordingly, disposed of.

24. There shall be no orders as to costs.

[R.I. CHAGLA, J.]