

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.60 OF 2023
WITH
JUDGE'S ORDER NO. 96 OF 2023
IN
INDIAN ADOPTION PETITION NO.60 OF 2023

Vatsalya Trust, Mumbai

...Petitioner

And

Mr. Aditya Sudhakar Pathak and
Mrs. Manasi Aditya Pathak

...Prospective
Adoptive Parents

Ms. Aarti P Kulkarni for the Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 14TH DECEMBER, 2023.

ORDER :

1. By this Indian Adoption Petition jointly filed by the
Petitioner and the Prospective Adoptive Parents, adoption of female
minor Vaidahi (“the said female minor”) born on 30th October, 2022

is sought. The said female minor was admitted to the Petitioner institution on 25/11/2022 as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District dated 22/12/2022 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). Thereafter the biological mother executed a Deed of Surrender before the said CWC, Mumbai Suburban District on 30/11/2022. The admission order of the CWC is on record at Page No.21 to the Petition.

2. After making due inquiry under Section 38 of said Act, the CWC, Mumbai suburban District declared the said female minor “Legally Free for Adoption” on 30/01/2023. The Free for adoption Certificate is on record at Page Nos. 23-24 to the Petition.

3. The Proposed Adopters are Indian nationals, residing at Kothurd, Pune, aged about 43 and 37 years respectively. They have been married for the past 13 years (20/06/2010) with no biological children.

4. The Motivation Letter from the Prospective Adoptive parents is on record at Page No. 33 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized

Adoption Agency (Petitioner) in support of the adoption of the said female minor is on record at Page Nos. 126-131 to the Petition.

6. The Minutes of the Adoption Committee Meeting held on 14/06/2023 is on record at Page No. 20 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child.

7. The Medical Reports dated 06/06/2023 of the Prospective Adoptive Parents states that they do not suffer from any chronic, congenital diseases and are physically and mentally fit to adopt the child. Their HIV & HbsAg Test reports certify the case as Negative. The said Reports are on record at Page Nos. 28-32 to the Petition.

8. The Prospective Adoptive Father is working as an Area Sales Officer with Navneet Education Limited, Pune since 02/11/2009 and his monthly (May-2023) gross salary is Rs.36,744/-. The pay slips and Form No. 12BA are on record at Page Nos. 43-51 to the Petition.

9. The Prospective Adoptive Mother is working as a Clerk with Tilak Ayurved Mahavidyalaya, Pune and her gross salary for the Assessment Year 2022-23 is Rs. 2,73,048/-. The Salary Certificate and

Form No. 16 are on record at Page Nos. 52-70 to the Petition.

10. The copies of Pan Card, Proof of Residence and supportive financial documents are on record at Page Nos. 34-36 & 71-72 to the Petition.

11. The Child Care Arrangement Plan statement is on record at Page Nos. 41-42 to the Petition.

12. The Home Study Report Part I : Self Assessment Reports by the Prospective Adoptive Parents is on record at Page Nos.73-80 & 94-99 to the Petition.

13. The Home Study Report Part II : Assessment Reports dated 02/12/2023 and 18/01/2023 of the Social Worker of “Society of Friends of the Sassoon Hospitals (SOFOSH)”, Pune have found the Prospective Adoptive parents suitable for adopting a child. The said reports are on record at Page Nos. 81-93 & 100-106 to the Petition.

14. The child security undertaking dated 15/06/2023 of the Prospective Adoptive Mother’s sister and brother-in-law residing at Pune to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos. 111-112 to the

Petition.

15. The pre-adoption foster care undertaking dated 15/06/2023 is on record at Page Nos. 39-40 to the Petition.

16. The Medical Examination Report of the said female minor dated 03/04/2023 states, "Health Status of the child: Normal child. Overall Observation of the child: Up to now her overall development is normal." The Proposed Adopters have countersigned the said report which is on record at Page Nos. 116-122 to the Petition.

17. The HIV report of the said female minor dated 05/12/2022 certifies the case as Negative. The said report is on record at Page No. 124 to the Petition. The Photograph of the said female minor is on record at Page No.125 to the Petition.

18. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor "Vaidahi" be renamed as "Rama Aditya Pathak".

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 female

minor. The said Declaration is on record at Page Nos. 37-38 to the Petition.

20. The undertaking dated 07/06/2023 given by the authorities of “Society of Friends of the Sassoon Hospitals (SOFOSH)”, Pune for furnishing post adoption follow-up reports is on record at Page No. 134 to the Petition.

21. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/07/2025.

22. The Scrutiny Officer, Mr. O. Hareendran has tendered the Report/Representation from the Indian Council of Social Welfare dated 09/11/2023 which is taken on record and marked ‘X’ for identification.

23. Having considered the material on record as well as the Report of the Scrutiny Officer which is marked ‘X’. I am of the view that it would be in the interest of the said female minor child that she is adopted by the Proposed Adopters.

24. 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

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.”*

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

26. 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 and has all parental legal rights, Privileges and responsibilities over the said minor.

(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 Rama Aditya

Pathak born on 30/10/2022 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from Vaidahi to “Rama Aditya Pathak” born on 30/10/2022.”

27. The Judge’s Order is accepted and signed separately.

28. 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 till the Adopted Child attains the age of majority. They have also undertaken not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipts to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

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

[R.I. CHAGLA, J.]