

Nikita

NIKITA
KAILAS
DARADE
Digitally signed by
NIKITA KAILAS
DARADE
Date: 2024.03.01
17:08:57 +0530

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

INDIAN ADOPTION PETITION NO.26 OF 2024

WITH

JUDGE'S ORDER NO. 39 OF 2024

IN

INDIAN ADOPTION PETITION NO.26 OF 2024

**Family Service Centre Through
Deputy Director Sheetal Rebello**

...Petitioner

And

**1. Mohit Saxena
2. Padma Suryawanshi**

**...Prospective
Adoptive
Parents**

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

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

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

Mr. Mohit Saxena Adoptive father present.

Ms. Padma Suryawanshi Adoptive mother present.

Kum. Samaira Saxena Adoptive child present.

CORAM : R.I. CHAGLA, J.

DATE : FEBRUARY 28, 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Ruhi ('the said female minor') born on 12/06/2023. The birth mother surrendered her child before the Child Welfare Committee, Mumbai City-I on 21/06/2023 and the child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 21/06/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Custody Order of CWC is on record at page 22 to the Petition.

2. After making due inquiry under section 38 of Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City-II declared the said female minor child "Legally Free for Adoption" on 23/08/2023. The Free for adoption Certificate is on record at page 21 to the Petition.

3. The Prospective Adoptive Parents are Indian Nationals, residing at Thane, Maharashtra aged about 37 and 36 years respectively. They have been married for the past 9 years (07/12/2014) with no biological children.

4. Motivation letter from the Prospective Adoptive Parents is on record at page No. 35 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. 96-100 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 26/10/2023 is on record at page Nos. 19-20 to the Petition and it states that the Prospective Adoptive Parents are suitable to adopt the said female minor Ruhi born on 12/06/2023.

7. The Health Report dated 26/10/2023 of the Prospective Adoptive Parents is on record and it states, “Do not suffer from any chronic disease and are clinically fit for adoption”. Their HIV and HBsAg test report certify the case as

Non Reactive. These reports can be found at page Nos. 29-34 to the Petition.

8. The Prospective Adoptive Father is working as a General Manager-Strategy & Operations with Justdial Ltd., and his monthly (November-2023) gross salary is Rs. 3,37,801/-. The Salary Slips and Income Tax Returns are on record at page Nos.43-48 to the Petition.

9. The Prospective Adoptive Mother is a Consultant with Flexing IT Services Pvt. Ltd. and her monthly Consultancy Charges is Rs. 1,29,600/-. Her Bill/Invoice for the month of October and November-2023 and Income Tax Returns are on record at page Nos. 49-53 to the Petition.

10. Proof of residence, Pan Card copies and supportive financial documents are on record at page Nos. 36-38 and 54-57 to the Petition.

11. The Childcare Arrangement Plan statement by the Prospective Adoptive Mother is on record at page Nos. 58 to the Petition.

12. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at pages 59-67 to the Petition.

13. The Home Study Report part II: Assessment report dated 28/08/2023 by the Social Worker of Specialized Adoption Agency, “Vatsalya Trust” Kanjur Marg, Mumbai is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said report can be found at page Nos. 68-71 to the Petition.

14. The Child Security Undertaking dated 26/10/2023 given by the Prospective Adoptive father’s brother and sister-in-law residing at Kota, Rajasthan to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page 80-82 to the Petition.

15. Medical Examination Report dated 5/10/2023 of the said female minor Ruhi is on record at page Nos. 87-92 to the Petition and it states “Status of the child: Normal. Overall Observation of the child: Seems appropriate for age”. The

Proposed Adopters have countersigned the said report.

16. The HIV Test Report of the said female minor dated 19/08/2023 certifies the case as Non Reactive. The said report can be found at page No. 94 to the Petition. Post Card Size Photograph of the said female minor is on record at page No. 95 to the Petition.

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents is on record and it states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor Ruhi. This declaration is at page Nos. 39-40 to the Petition.

18. The Pre-Adoption Foster care undertaking dated 28/10/2023 is on record at page Nos. 41-42 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor '**Ruhi**' be renamed as "**Samaira Saxena**".

20. Undertaking dated 19/01/2024 given by the

specialized Adoption Agency “Vatsalya Trust”, Kanjur Marg, Mumbai for furnishing post adoption follow-up reports is on record at page No. 101 to the Petition.

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

22. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/ Representation from the Indian Council of Social Welfare dated 19/2/2024, which is taken on record and marked “**X**” for identification.

23. Having considered the material on record, as well as the Scrutiny Report dated 19/2/2024 marked “X”, in my view, it would be in the interest of the said female minor child that she is adopted by the Prospective Adoptive Parents.

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.**, 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 disposed 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 **Samaira Saxena** in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said female 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 **Samaira Saxena**

born on 12/06/2023 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 **‘Ruhi’** to **“Samaira Saxena “**.

27. In the Judge’s Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.2,00,000/- (Rupees One Lakh only) in the name of the Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipt to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

28. The Judge’s Order is also separately signed.

29. The Indian Adoption Petition is accordingly disposed of.

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]