

Sharada

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

INDIAN ADOPTION PETITION NO. 41 OF 2024

WITH

JUDGE'S ORDER NO. 58 OF 2024

IN

INDIAN ADOPTION PETITION NO. 41 OF 2024

Family Service Centre

...Petitioner

And

Janardan Narayan Vanmala and Seema
Janardan (Pro Parents) and Vyom Janardan
Vanmala (Male Minor)

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i.by Kapoor and co., Advocate for the Petitioner.

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

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

Mr. Janardan N. Vanmala – Prospective Adoptive Father.

Ms. Seema J. Vanmala – Prospective Adoptive Mother along with
Vyam Janardan Vanmala – Minor present.

CORAM : R.I. CHAGLA, J.

DATE : 3 APRIL 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Divija (“**the said male minor**”) born on 01/09/2023. The biological mother surrendered her child before the Child Welfare Committee, (CWC) Mumbai City-I on 05/09/2023 and the child’s safe custody was given to the Petitioner institution on the same day as per the order dated 05/09/2024 of the CWC under the Provisions of the Juvenile Justice(Care and Protection of Children) Act, 2015 (“the said Act”). The Admission Order of the CWC is on record at page No.22 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban-II City declared the said male minor (“Legally Free for Adoption”) on 06/10/2023. The Free for adoption Certificate is on record at page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Belapur, Navi Mumbai, aged about 44 and 39 years respectively. They have been married for the past 13 years (18/05/2011) with no biological children.

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

5. The Minutes of Adoption Committee Meeting held on 19/12/2023 is on record at page Nos.19-20 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said male minor.

6. 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.139-143 to the Petition.

7. The Medical Examination Report of the Prospective Adoptive Parents dated 05/12/2023 states that they do not suffer from any chronic, contagious or fatal disease and are fit to adopt a child. Their HIV I & II and Hepatitis B test reports certify the case as Non-reactive. These report are on record at page Nos.27-32 to the Petition.

8. The Prospective Adoptive Father is working as a Vmware Administrator with Alten Calsoft Labs (India) Private Limited, Mumbai since July 2017 and his monthly (October-2023) gross salary is Rs.80,367/-. The Pay slips and Income Tax Returns are on record at

page Nos.42-65 to the Petition.

9. The Prospective Adoptive Mother is working as an Assistant Teacher with General Education Academy, Chembur, Mumbai since June 2010 and her gross monthly salary is Rs.43,849/-.The Employment / Salary Certificate and Income Tax Returns are on record at page Nos.66-86 to the Petition.

10. The Proof of Residence,copies of Aadhar and Pan Cards and other supportive financial documents are on record at page Nos.34-36 & 87-94 to the Petition.

11. The Childcare Arrangement Plan statement of the Prospective Adoptive mother and her mother-in-law is on record at page Nos.95-98 to the Petition.

12. The Home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.99-106 to the Petition.

13. The Home Study Part II : Assessment Reports dated 18/01/2021 of the Specialized Adoption Agency, “Children of the World (India) Trust”, Nerul, Navi Mumbai is on record and the

reports have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos.107-112 to the Petition.

14. The child security undertaking dated 20/12/2023 given by the Prospective Adoptive father's brother and sister-in-law residing at Belapur, Navi Mumbai to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.122-123 to the Petition.

15. The Medical Examination Report of the said male minor dated 17/11/2023 states, "Health status: Normal. Overall Observation of the child: Healthy infant". The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos.128-134 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Aarav be renamed as "Vyom Janardan Vanmala".

17. The HIV test report of the minor dated 13/11/2023 certifies the case as Non Reactive. This report can be found at page No.137 to the Petition.

18. The Post Card Size Photograph of the said male minor is at page No.138 to the Petition.

19. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said male minor. The said Declaration is on record at page Nos.37-38 to the Petition.

20. The Pre-adoption foster care undertaking dated 20/12/2023 is on record at page Nos.39-41 to the Petition.

21. The undertaking dated 19/12/2023 given by the Specialized Adoption Agency “Children of the World (India) Trust” Nerul, Navi Mumbai for furnishing post adoption follow-up reports is on record at page No.144 to the Petition.

22. 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.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 16/03/2024 which is taken on record and marked ‘X’ for

identification.

24. Having considered the material on record as well as the Report of the Scrutiny Officer dated 16/03/2024 marked 'X', in my view, it would be in the interest of the said male minor child if he is adopted by the Proposed Adoptive Parents.

25. 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.”*

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

27. 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 Vyom Janardan Vanmala.

(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 male minor Vyom Janardan Vanmala born on 01/09/2023 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 "Aarav" to "Vyom Janardan Vanmala" born on 01/09/2023.

28. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount 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 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.

29. The Judge's Order is also accepted and separately signed.
30. The Indian Adoption Petition is accordingly, disposed of.
31. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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