

Sharada

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

INDIAN ADOPTION PETITION NO. 42 OF 2024

WITH

JUDGE'S ORDER NO. 59 OF 2024

IN

INDIAN ADOPTION PETITION NO. 42 OF 2024

Family Service Centre Th. Its Dy. Director/
Authorised Signatory Sheetal Rebello

...Petitioner

And

Karthik Movva and Asha Sajja (Prop.
Parents) and Aleena Movva (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.

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 female minor Yutika (“**the said female minor**”) born on 03/08/2023. The biological mother surrendered her child before the Child Welfare Committee (CWC), Mumbai City-I on 09/08/2023 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 09/08/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The Admission order 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, declared the said female minor Yutika (“Legally Free for Adoption”) on 10/10/2023. 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 Rangareddy, Telangana, aged about 38 and 36 years respectively. They have been married for the past 10 years (21/12/2013) with no biological children.

4. The Motivation Letter of the Proposed Adoptive Parents is on record at page No. 32. to the Petition.

5. The Minutes of Adoption Committee meeting held on 01/12/2023 is on record at page Nos.19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

6. 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. 97-101 to the Petition.

7. The Medical Report of the Prospective Adoptive Parents dated 18/11/2023 states that both are not suffering with 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 reports can be found at page Nos.27-31 to the Petition.

8. The Prospective Adoptive father is working as a Principal It Asset Specialist with Skilsoft Services India Private Limited Hyderabad since July 2022 and his monthly (July) 2023 gross salary is Rs.2,90,240/-. The Pay slips and Form No.16 are on record at page Nos.39-48 to the Petition.

9. The Prospective Adoptive mother is working as a Consultant with Thryve a Digital Health LLP, Hyderabad since

January 2023 and her monthly (October-2023) gross salary is Rs.1,69,748/-. The Pay slips and Form No.16 are on record at page Nos.49-57 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. 33-35 & 58-61 to the Petition.

11. The children arrangement plan undertaking of the Prospective Adoptive Parents is on record at page Nos.65-67 to the Petition.

12. The Home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.64-71 to the Petition.

13. The Home Study Part II : Assessment Reports dated 13/02/2023 of the District Welfare Officer, Women abled & Senior Citizen Welfare Department, Govt. of Telangana is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said Home Study Reports are on record at page Nos72-76 to the Petition.

14. The child security undertaking dated 10/01/2024 given by the Prospective Adoptive mother's brother and sister-in-law residing at Bapatla District, Andhra Pradesh to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page No.82 to the Petition.

15. The Medical Examination Report of the said female minor dated 03/11/2023 states, "Health status of the child: Normal child. Overall Observation of the child: Up to now her overall development is within normal limits". The Prospective Adoptive Parent has countersigned the Medical Examination Report which is on record at page Nos.75-81 to the Petition.

16. As regards the change of name, the Proposed Adoptive Parents desire that the said female minor 'Yutika' be renamed as "Aleena Movva".

17. The HIV report of the said female minor dated 17/10/2023 certifies the case as Negative. This report is on record at page No.95 to the Petition. The Post Card Size Photograph of the said female minor is on record at page No.96 to the Petition.

18. The Declaration of consent, and willingness to adopt 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 No.36 to the Petition.

19. The Pre-adoption foster care undertaking dated 10/01/2024 is on record at page Nos37-38 to the Petition.

20. The undertaking dated 11/12/2023 given by the authorities "Women, Child, Disabled & Senior Citizen Welfare Department", Rangareddy District, Telangana for furnishing post adoption follow-up reports is on record at page No.102 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 05/05/2025.

22. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 19/03/2024 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 dated 19/03/2024 marked 'X', in my view, it would be in the interest of the said female minor child if she is adopted by the Proposed 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.**,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 having all parental legal rights, Privileges and responsibilities over the said minor Aleena Movva.

(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 female minor Aleena Movva born on 03-08/2023 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 'Yutika' to "Aleena Movva "born on 03/08/2023".

27. In the Judge's Order there is an undertaking of the Adoptive Parents to invest an amount of Rs.2,00,000/- (Rupees Two 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 her becoming a major. These undertakings are accepted as an undertakings to this Court.

28. The Judge's Order is also accepted and separately signed.

29. The Indian Adoption Petition is accordingly, disposed of.

30. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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