

Sharayu Khot.

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

INDIAN ADOPTION PETITION NO. 44 OF 2024
WITH
JUDGE'S ORDER NO. 66 OF 2024
IN
INDIAN ADOPTION PETITION NO. 44 OF 2024

Worldchildren Welfare Trust Bal Anand ...Petitioner

And

Sagar Vitthal Mane and ...Prospective
Surekha Sagar Mane Parents

Mr. Sameer Sawant a/w Ms. Snehal Gambhir for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer, ICSW present.
Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 24 April 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the Prospective Adoptive Parents have sought adoption of the female minor Dua (“the said female minor”) born on 21/06/2023.

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2. The said female minor was admitted to the Petitioner institution on 26/06/2023 as per the order of the Child Welfare Committee (CWC), Mumbai Suburban District, Mumbai dated 26/06/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). Subsequently, the biological parents executed a Deed of Surrender before the said CWC on 06/07/2023 for the child’s further rehabilitation. The Admission Order of CWC is on record at page No. 19 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban District, Mumbai declared the the said female minor “Legally Free for Adoption” on 10/10/2023. The Free for adoption Certificate is on record at page Nos. 20-21 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Naigaon, Dist. Palghar, Maharashtra, both aged about 39 years have been married for the past 10 years (29/05/2014) with no biological children.

5. Motivation Letter by the Prospective Adoptive Parents is

on record at page No. 51 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 28/11/2023 is on record at page No. 18-18A to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The 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. 22-25 to the Petition.

8. The Medical report of the Prospective Adoptive Parents dated 10/11/2023 states that both are in good health and fit for parenting an adopted child. Their HIV I & II and Hepatitis B test Reports certifies the case as Negative. These Reports are on record at page Nos. 38-45 to the Petition.

9. The Prospective Adoptive Father is working, as an Electro Technical Officer with Executive Ship Management, Singapore and his monthly (July-2023) total earnings is USD 5827.00. His Employment Contract and Payslip are on record at page Nos. 57-59

to the Petition.

10. The Prospective Adoptive Mother is a Homemaker.

11. The Copies of PAN Card, Aadhar Card, Proof of Residence and other supportive financial documents are on record at page Nos. 34-37, 46 and 60-65 to the Petition.

12. The home study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 85-93 to the Petition.

13. The home study Report part II: Assessment Reports dated 13/09/2019 and 04/08/2022 of the District Child Protection Officer, Palghar have found the Prospective Adoptive Parents suitable for adopting a child. These Reports are on record at page Nos. 94-103 to the Petition.

14. The child security undertaking dated 13/11/2023 by the Prospective Adoptive Father's sister and brother-in-law residing at Palghar, Maharashtra to look after the the said female

minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 78-83 to the Petition.

15. Medical Examination Report of the said female minor dated 19/10/2023 states “Health Status: Normal. Overall Observation of the child: Dua’s growth and development is appropriate for age”. The Prospective Adoptive Parents have countersigned the said Medical Examination Report which is on record at page Nos. 112-121 to the Petition.

16. As regards the change of name, the Adoptive Parents desire that the said female minor ‘Dua’ be renamed as “Samira Sagar Mane”.

17. The H.I.V. Report of the said female minor dated 27/06/2023 certifies the case as Negative. This Report is on record at page No. 122 to the Petition.

18. The Photograph of the said female minor is on record at page No. 26 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 the Adoptive Parents of the said female minor. This declaration is at page Nos. 47-49 to the Petition.

20. The Pre-adoption foster care undertaking dated 29/11/2023 is on record at page Nos. 52-56 to the Petition.

21. The undertaking dated 08/12/2023 given by the authorities of District Women and Child Development Office, Palghar for furnishing post adoption follow-up Reports is on record at page Nos. 106-108 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 of Indian Council of Social Welfare dated 12th April 2024, which is taken on record and marked "X" for

identification.

24. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, I am of the view that it would be in the interest of the said female minor, if she is adopted by the Proposed Adopters.

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

1 Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

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 this Hon’ble Court may please to appoint the prospective parents as Adoptive Parents of the said minor DUA @ SAMIRA now in the legal custody of the Worldchildren Welfare Trust India, BAL ANAND, MUMBAI;*
- (b) That the prospective parents be allowed to change the name of the minor, from DUA TO SAMIRA SAGAR MANE;*
- (c) That the petitioners be granted leave of this Hon’ble Court to remove the said minor DUA outside the jurisdiction of this Hon’ble Court and to take the said minor alongwith them i.e. to the family of the prospective parents wherever they may reside or their work may required them to;*
- (d) That the concerned Municipal Authority may be directed to issue Birth Certificate within five working days from the date of application of the Petitioner, as per the provision of regulation 35 of the Adoption Regulation of the said minor DUA @ SAMIRA showing the prospective parents SAGAR VITHAL MANE AND SUREKHA SAGAR MANE as the adoptive father and mother respectively.”*

28. There is an undertaking in the Judge’s Order that Adoptive Parent will create a fixed deposit for an amount of Rs.

1,50,000/- (Rupees One Lakh Fifty Thousand only) in the name of the Adopted Child. The Adoptive Parents further undertake not to withdraw the said amount until the Adopted child attains majority. They agree to handover investment receipts to the Adopted child on her becoming a major. These undertakings are accepted as an undertakings to this Court.

29. Judge's Order is accepted and signed separately.

30. The present Indian Adoption Petition is accordingly, disposed of.

31. There shall be no order as to costs.

[R.I. CHAGLA J.]

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