

Sarada

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

INDIAN ADOPTION PETITION NO. 46 OF 2024

WITH

JUDGE'S ORDER NO. 69 OF 2024

IN

INDIAN ADOPTION PETITION NO. 46 OF 2024

Wilfred Cyril Fernandes and Cindrella
Wilfred Fernandes

...Petitioners

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. Wilfred Cyril Fernandes - Prospective Adoptive Father.

Ms. Cindrella Wilfred Fernandes – Prospective Adoptive Mother along
with Giselle Wilfred Fernandes – Minor present.

CORAM : R.I. CHAGLA, J.

DATE : 23 APRIL 2024

ORDER :

1. By this Indian Adoption Petition the Petitioners are seeking adoption of the female minor Giselle (“**the said Adoptee**”) born on 10/01/2023. The Said Adoptee is the biological daughter i.e one of twins (girl and boy) of Naving Gregory Castelino and Nisha Naving Castelino. The biological parents also have an elder daughter “Crisia Castelino” born on 25/07/2015. The Petitioner No.2 Cendrella Fernandes and Nisha Castelino (biological mother) are best friends since 1987. Since the Petitioners were childless even after 8 years of marriage and knowing that the couple desired to adopt a child Nisha Castelino at when pregnant with twins, decided to give one baby in adoption to the Petitioners herein. At the time the birth of the twins (a boy and girl), the baby girl Giselle had been handed over to the Petitioners. She was 4 days old at that time.

2. The Petitioners have decided to take the said Adoptee in legal guardianship with the consent of the biological parents and had filed a Guardianship Petition in this Court. This Court allowed the Guardianship Petition. By order dated 3rd August, 2023. The said Order is on record at page No.17 to the Petition.

3. The above Indian Adoption Petition is filed by the Petitioners

as per the provisions of the Judgment dated 27th October, 1999 of Justice Shri. F.I. Rebello (2000 ALL MR Pg.39) and the Judgment dated 22nd April, 2018 of Justice Shri G. S. Patel (Indian Adoption Petition No.32 of 2018).

4. The Petitioners are Indian Nationals residing at Wadala, Mumbai, aged about 39 and 40 years respectively. They have been married for the past 10 years (08/02/2014) and have no biological children.

5. The Medical Certificate of the Petitioners dated 30/11/2023 states that “They do not suffer from any chronic, communicable or life threatening disease and is fit to adopt a child.” The said Medical Certificate is on record at page Nos.30-37 to the Petition.

6. The first Petitioner is working as Senior Executive with CMA CGM Agencies (India) Private Limited, Mumbai since 04/12/2009 and his monthly (November-2023) gross salary is Rs.41,430/-. The Employment Certificate, Pay slips and Income Tax returns are on record at page Nos.30-37 to the Petition.

7. The Second Petitioner is working as an Administrative Staff as

“Support Services Contract” basis with Ashmore Investment Management India LLP, Mumbai since 15/10/2022 and her present monthly gross salary is Rs.58,186/-. Her Employment Certificate and Income Tax Returns are on record at page Nos.38-43 to the Petition.

8. As per this court’s direction vide order dated 03/08/2023, the Petitioners have invested a sum of Rs.1,02,739/- in the name of said Adoptee in LIC’s Single Premium Plan. The said certificate is on record at page Nos.60-64 to the Petition.

9. The Home Study report dated 19/12/2023 of the Petitioners by the Social Worker Ms. Clipsy Banji, BA, MSW, PGPDM is on record and the Social Worker found the Petitioners as suitable Adoptive Parents for the said Adoptee. This report is on record at page Nos.65-67 to the Petition.

10. The follow up Report of the said Adoptee dated 19/12/2023 states that “Giselle has a close bonding with her parents, especially with father and grandfather. She also bonds very well with her twin brother whenever they meet. Giselle is active and smart. She has adjusted well to her surrounding in the family home.”

11. The Medical Certificate of the said Adoptee dated 06/12/2023 states “She is normally growing child with normal physical milestones”. The said Medical Certificate is on record at page No.71 to the Petitioners

12. The latest Post Card size photograph of the said Adoptee is on record at page No.70 to the Petition.

13. The Recommendation letters in support of adoption of the said Adoptee from close relatives and family friends are on record at page Nos.73-78 to the Petition.

14. The child security undertaking dated 04/04/2024 given by the second Petitioner’s sister residing at Kurla, Mumbai to look after the said Adoptee in case of any mishap to the Petitioners is on record at page Nos.79-82 to the Petition.

15. As regards the change of name, the Petitioners desire that the said Adoptee ‘Giselle Naving Castelino’ be renamed as “Giselle Wilfred Fernandes”.

16. Mr. O. Hareendran, Scrutiny Officer has tendered Report /

Representation from the Indian Council of Social Welfare (ICSW) dated 19/04/2024. A conclusion has been arrived at in the report based on the Guardianship Petition No.11 of 20233 allowed on 03/08/2023 by this Court in favour of the Petitioners and the home visit report/ progress report prepared by the qualified Social Worker that Giselle is well integrated into the adoptive family.

17. The said Adoptee together with the Petitioners are present at today's hearing. From the interaction with the petitioners, I find that the petitioners have taken great care of the said Adoptee and that there is integration. The Petition is filed by the Petitioners confirmation of their legal status as Adoptive Parents of the said Adoptee.

18. Considering that the Adoptive Parents have already invested a sum of Rs.1,02,739/-. In the name of the said Adoptee in LIC single premium plan, and that the certificate is on record, there is no question of any further investment.

19. Having considered the material on record as well as the Report of the Scrutiny Officer dated 19/04/2024 marked 'X', in my

view, it would be in the interest of the said Adoptee if she is adopted by the Petitioners.

20. 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 be pleased to declare the Petitioners as Adoptive Parents of the said female minor Giselle Wilfred Fernandes, under the guardianship of the Petitioners Mr. Wilfred Cyril Fernandes and Mrs. Cindrella Wilfred Fernandes.

(b) That the period of two years must elapse before the Court considers the Petition for adoption from the date of the Court passes the Order of Guardianship be waived off.

(c) That the Petitioner be allowed to change the name of the male minor from “Giselle Naving Castelino’ to “Giselle Wilfred Fernandes”.

(d) That the concerned Municipal Authority/ Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said female minor Giselle Wilfred Fernandes, born on 10/01/2023 and stating that thereon that the Petitioners Mr. Wilfred Cyril Fernandes and Mrs. Cindrella Wilfred Fernandes as the Parents of the said female minor Giselle Wilfred Fernandes”

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

[R.I. CHAGLA, J.]

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