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

FOREIGN ADOPTION PETITION NO. 13 OF 2024

WITH

JUDGE'S ORDER NO. 78 OF 2024

IN

FOREIGN ADOPTION PETITION NO. 13 OF 2024

Bal Asha Trust,

...Petitioner

And

1. Ravindranath Bujan, Mauritius

...Proposed

2. Sooneeta Bujan, Mauritius

Adopter

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor & Co, Advocate for
the Petitioner.

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

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

Ms. Swarupa Arora- Senior Social Worker & Ms. Angle Aloor-
Junior Social Worker-Present.

CORAM : R.I. CHAGLA, J.

DATE : 8 May 2024

ORDER :

1. By this Foreign Adoption Petition the Petitioner and the Proposed

Adopter have sought adoption of male minor Babu Raju Kaliya (“**the said male minor**”) born on 13/08/2013. The said male minor was taken charge of the Dahisar Police Station, Mumbai on 13/08/2018 and admitted in Additional Observation Home, Mankhurd, Mumbai Suburban on the same day. On 26/10/2021, the said male minor was transferred to the Petitioner institution as per the Child Welfare Committee (CWC) Mumbai, City-II under the Provisions of Juvenile Justice (Care and Protection of Children) Act 2015, (‘the said Act’). Thereafter the biological father executed a Deed of Surrender before the CWC, Mumbai City-I on 13/06/2022. The Admission Order of the CWC is on record at page Nos.19 to the Petition.

2. After making due inquiry under Section 38 of the said Act, the CWC Mumbai, City-I declared the said male minor Babu Raju Kaliya “Legally Free for Adoption” as on 06/09/2022. The Free for Adoption Certificate is on record at page Nos.17-18 to the Petition.

3. The Central Adoption Resource Authority (CARA), New Delhi has issued No Objection Certificate dated 16/11/2023 to this adoption as per Adoption Regulations 2022 and Article 17 (c) of the Hague Convention on the Protection of the Children and Cooperation in respect of Inter-country Adoption 1993. The said No-objection Certificate is on record at page No.25 to the Petition.

4. The undertaking / affidavit by the Petitioner institution is on record at page Nos.21-25 to the Petition.
5. The Prospective Adoptive Parents are Mauritius Nationals, residing at Surinam, Mauritius aged about 61 and 52 respectively. They have been married for the past 14 years (16/02/2010).
6. The Prospective Adoptive Father was married earlier on 11/05/1997 and divorced on 16/10/1998 with no biological children. The Prospective Adoptive Mother was also married earlier on 22/11/2006 and divorced on 08/05/2009 with no biological children. The Divorce Decrees are on record at page Nos.36-37 to the Petition.
7. The Proposed Adopters' Joint Family Photograph and Copies of Passport are on record at page Nos.27-31 to the Petition.
8. The Medical Report dated 09/03/2023 of the Prospective Adoptive Parents states "They are physically, mentally and clinically healthy". Their HIV Test Reports certify the case as Negative. These reports are on record at page Nos.38-41 to the Petition.

9. The Tax Certificate and Residence Certificate are on record at page Nos.42-49 to the Petition.

10. The Prospective Adoptive Father is working as a Refuse Collector with the District Council of Savanne and his monthly (January-2024) gross salary is MUR 36,51.57. His Pay Slip and Income Tax returns are on record at page Nos.42-60 to the Petition.

11. The Prospective Adoptive Mother was working as a Baby Sitter; however, she left the said job with effect from January 2024 and currently, a Homemaker. Her Childcare arrangement statement is on record at page No.66 to the Petition.

12. The Supportive financial documents and Residence Certificate are on record at page Nos.61-65 to the Petition.

13. The Home Study Reports dated 11/03/2022 and 08/08/2024 by the Authorities of “Probation and After Care Service”, Mauritius have found the Prospective Adoptive Parents suitable to adopt a child. The said Home Study Reports are on record at page Nos.67-79 to the Petition.

14. The Psychological Evaluation Report of the Prospective

Adoptive parents dated 09/10/2018, 16/03/2022 and 14/07/2024 by the Psychologist of Ministry of Gender Equality, Child Development and Family Welfare, Republic of Mauritius are on record at page Nos.80-86 to the Petition.

15. The Permission of the Receiving Country as per Article 5/17 of the Hague Convention is on record at page Nos.87-88 to the Petition.

16. The Child Security Undertaking dated 18/06/2018 given by the Prospective Adoptive Mother's elder sister, residing at Mauritius to look after the said male minor in case of any mishap to the Prospective Adoptive Parents are on record at page Nos.93 to the petition.

17. The Medical Examination Report of the said male minor dated 14/09/2022 states "Health Status: Normal. Overall Observation of the child: Normal child". The Prospective Adoptive Parents have countersigned this Report which is at page Nos.159-170 to the Petition.

18. The Report of Psychological Testing of the said male minor dated 09/06/2023 states that he has average intellectual functioning and social functioning. His language, speech and hearing report of July 2022 states that the said male minor shows delay in his speech and language development. He requires continuous language stimulations

for achieving further milestones. The Prospective Adoptive Parents have countersigned these reports, which is on record at page Nos.103-106 to the Petition.

19. The H.I.V. Report of the said male minor dated 30/10/2021 certifies the case as Non-reactive. This report is on record at page No.108 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.109 to the Petition.

20. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Babu Raju Kaliya' be renamed as "Risabh Kumar Bujun".

21. The consent, willingness and undertaking of the Prospective Adoptive Parents states that they are willing to adopt the said male minor. They further undertake that they will allow personal visits by the representative of the Central Authority during post-adoption follow up. The said Declaration is on record at page Nos.110-111 to the Petition.

22. The Undertaking dated 23/03/2023 by the Authorities of "Ministry of Gender Equality and Family Welfare" Republic of Mauritius to provide follow-up reports of the child is on record at page Nos.112 to the Petition.

23. The Power of Attorney dated 12/12/2023 duly executed by the Prospective Adoptive Parents in favour of the Petitioner institution is on record at page Nos.113-115 to the Petition.

24. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/005/2025.

25. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 25/04/2024 which is taken on record and marked 'X' for identification.

26. Having considered the material on record as well as the Report of the Scrutiny Officer marked 'X', in my view, it would be in the interest of the said male minor that he is adopted by the Proposed Adoptive Parents.

27. 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

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

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.”

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

29. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (e) of the Petition, which read thus:-

“(a) For the Adoption of the proposed minor Risabh Kumar Bujun born on 13/08/2013 by the proposed adopters under Section 59(7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Risabh Kumar Bujun and having all parental rights, privileges and responsibilities over the said minor now in the care and custody Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai -400 011.

(c) That the proposed adopters be allowed to change the name of the minor ‘Babu Raju Kaliya’ to “Risabh Kumar Bujun”.

(d) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate

of the said minor Risabh Kumar Bujun born on 13/08/2013 and showing the proposed adopters as Parents.

(e) That the Proposed Adopters may be granted leave to remove the said minor Risabh Kumar Bujun from the jurisdiction of this Hon'ble Court and to take the said minor to Mauritius or wherever they may reside in future".

30. It is directed that the Petitioner institution shall obtain a further undertaking from the Adoptive Parents that they shall not give the Adopted child for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

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

32. The present Foreign Adoption Petition is accordingly disposed of.

33. There shall be no order as to costs.

[R.I. CHAGLA, J.]

Privacy warning : No part of this order shall be uploaded on any public domain or portal without this Court's express permission.