

Nikita

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

INDIAN ADOPTION PETITION NO. 22 OF 2024
WITH
JUDGE'S ORDER NO. 32 OF 2024

Sharaddhanand Mahilashram Through ...Petitioner
Kshama Joshi

And

1. B. Kulsekaran ...Prospective
2. Srividya Kulasekaran Adoptive
Parents

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Mr. Rakesh Kapoor i/b M/s. Rakesh K.L. Kapoor & Co., Advocate for the
Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA, J.

DATE : 21ST FEBRUARY 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective
Adoptive parents have sought the adoption of the female minor Mahi, ("the
said female minor") born on 22/04/2022. The said female minor was

admitted to the Petitioner Institution on 27th April, 2022 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 27th April, 2022 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('the said Act'). Thereafter, the birth Mother executed a Deed of surrender before the said CWC on 09/05/2022 for the child's further rehabilitation. The Admission Order of the CWC is on record at page No. 23 to the Petition.

2. After making due inquiry under section 38 of the said Act, the CWC, Mumbai City II declared the said female minor "Legally Free for Adoption" on 04/08/2022. The Free for adoption Certificate is on record at page No. 22 to the Petition.

3. The Prospective Adoptive Parents are residing at Cuddalore, Tamil Nadu aged about 41 and 42 years respectively. They have been married for the past 14 years (04/02/2010) with no biological children.

4. The motivation letter of the Prospective Adoptive Parents is on record at page 37 to the Petition.

5. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor Mahi is on record at page Nos. 85-89 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 23rd June, 2023 is on record at page Nos. 21 to the Petition and the Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor child.

7. The Health report dated 10/06/2023 of the Prospective Adoptive Parents states, "They do not have any physical or mental condition which would impair their ability to care for an adoptive child". Their HIV and HBsAg test report certify the case as Negative. These reports are at page Nos. 33-36 to the Petition.

8. The Prospective Adoptive Father is working as a Chief Officer with Marshal Ship Management Pvt. Ltd., Mumbai since June 2018 and his monthly salary is \$ 10,700. His Employment Contract, Monthly Wage Account and Income Tax Returns are on record at page Nos. 44-49 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The Proof of Residence, copies of Pan Card and supportive financial documents are on record at page Nos. 38-40 and 50-53 to the Petition.

10. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at pages 54-61 to the Petition.

11. The Home Study Report Part II: Assessment report dated 17/12/2022 by the Social Worker of “Bless Home Learning Estate” (Specialized Adoption Agency) Cuddalore, Tamil Nadu has found the Prospective Adoptive Parents suitable for adopting a child. This Report is on record at pages 62-64 to the Petition.

12. The Child Security Undertaking dated 15/06/2023 given by the Prospective Adoptive Father’s sister and brother-in-law residing at Chennai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page No.72 to the Petition.

13. Medical Examination Report dated 27/04/2022 of the said female minor Mahi states “Health Status: Normal. Overall Observation of the child: Active”. The Proposed Adopters have countersigned the said report. This report is on record at page Nos. 75-81 to the Petition.

14. The HIV Test Report of the said female minor dated 07/10/2022 certifies the case as Non reactive. This report is on record at page No. 83 to the Petition.

15. Post Card Size Photograph of the said female minor is on record at page No. 84 to the Petition.

16. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor 'Mahi' be renamed as " Bhavishya Kulasekaran".

17. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of female minor. This declaration is on record at page No. 41 to the Petition.

18. The Pre-Adoption Foster Care Undertaking dated 15/06/2023 is on record at pages 42-43 to the Petition.

19. The Undertaking dated 13/06/2023 by the Specialized Adoption Agency "Bless Home Learning Estate", Cuddalore, Tamil Nadu for furnishing post adoption follow-up reports is on record at page No.90 to the Petition.

20. The Petitioner institution's recognition from the Women and Child Development, Maharashtra State to place children in adoption is valid up to 08/03/2024.

21. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 16th February 2024 which is taken on record and marked 'X' for identification.

22. Having considered the material on record as well as the Report of the Scrutiny Officer dated 16th February 2024 marked 'X', in my view, it would be in the interest of the said female minor if she is adopted by the Proposed Adoptive Parents.

23. 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."

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

25. 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 **Bhavishya Kulasekaran** in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor.
- (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 minor **Bhavishya Kulasekaran** born on 22/04/2022 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 **Mahi** to “**Bhavishya Kulasekaran**”.

26. The Judge’s Order is also separately signed.

27. 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 name of the Adopted Child in any Nationalized Bank. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipt to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

28. The Indian Adoption Petition is accordingly disposed of.

29 . There shall be no orders as to costs.

[R.I. CHAGLA, J.]