

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. 5 OF 2024
WITH
JUDGE'S ORDER NO. 9 OF 2024

Shraddhanand Mahilashram

...Petitioner

And

Krutin Atul Sheth & Anr.

...Prospective
Adoptive Parents

Mr. R.K.L. Kapoor for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer present.

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

CORAM : R.I. CHAGLA J

DATE : 11 January 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought adoption of the male minor Ashwin (“**the said male minor**”), born on 4th July 2022.

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2. The said male minor was admitted to the Petitioner Institution on 11th July 2022 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 11th July 2022 under the provisions of 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 19th July 2022 for the child’s further rehabilitation. The Custody Order of the CWC is on record at page 23 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City II declared the said male minor Ashwin **“Legally Free for Adoption”** on 24th November 2022. The Free For Adoption Certificate is on record at page 22 to the Petition.

4. The Prospective Adoptive Parents are residing at Talegaon, Maharashtra aged about 37 and 35 years respectively. They have been married for the past 12 years (29th November 2011) with no biological children.

5. The motivation letter of the Prospective Adoptive Parents is on record at page 31 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor is on record at page Nos. 97-101 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 26th June 2023 is on record at page No. 21 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

8. The Health Report dated 13th June 2023 of the Prospective Adoptive Parents states,” They are found to be mentally and physically fit for adoption”. Their HIV and HBsAg test Report certify the case as Non Reactive. The said Reports are on record at page Nos. 27-30 to the Petition.

9. The Prospective Adoptive Father is working as a Director of Sales with Marriott Hotels India Pvt. Ltd., Hinjewadi, Pune since 25th February 2013 and his monthly (May-2023) gross salary is Rs. 1,46,272/-. His Employment Certificate, Pay slips and Income Tax Return are on record at page Nos. 39-44 to the Petition.

10. The Prospective Adoptive Mother is currently a Homemaker.

11. The Proof of Residence, Copies of Aadhar and Pan Card and supportive financial documents are on record at page Nos. 32-35 and 45-55 to the Petition.

12. The statement of Child Care Plan by the Prospective Adoptive Parents is on record at page No. 56 to the Petition.

13. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at pages 57-65 to the Petition.

14. The Home Study Part II: Assessment report dated 9th March 2021 by the Social Worker of “Bharatiya Samaj Seva Kendra”, Pune is on record and the Report has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at pages 66-75 to the Petition.

15. The child security undertaking dated 29th June 2023 given by the Prospective Adoptive mother's brother and sister-in-law residing at Kandivali, Mumbai to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 83-84 to the Petition.

16. Medical Examination Report dated 27th April 2023 of the said male minor states "Health Status: Normal. Overall observation of the child: Active". The Proposed Adopters have countersigned the said Report, which is on record at page Nos. 87-93 to the Petition.

17. The HIV Report of the said male minor dated 12th August 2022 certifies the case as Non reactive. This Report is on record at page 95 to the Petition.

18. Post Card Size Photograph of the said male minor is on record at page 96 to the Petition.

19. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor 'Ashwin' be

renamed as “Manit Krutin Sheth”.

20. The Declaration of consent and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared Adoptive Parents of the said male minor. This declaration is on record at page Nos. 35-35A to the Petition.

21. The Pre-adoption foster care undertaking dated 29th June 2023 is on record at page Nos. 36-38 to the Petition.

22. The undertaking dated 9th June 2023 by the Specialized Adoption Agency “Bharatiya Samaj Seva Kendra”, Pune for furnishing post adoption follow-up reports is on record at page No. 102 to the Petition.

23. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 8th March 2024.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 26th

December 2023, which is taken on record and marked “X” for identification.

25. 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 male minor, if he is adopted by the Prospective Adopters.

26. 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

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

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.”

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

28. In these circumstances, the Petition is made absolute in terms of prayer clauses (a) to (d) which read thus:-

- “(a) That the Prospective Adoptive Parents be given the said child **Manit Krutin Sheth** 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 **Manit Krutin Sheth** born on 04/07/2022 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 ASHWIN to “**Manit Krutin Sheth**” .”*

29. There is an undertaking in the Judge’s Order that the Adoptive Parents will create a fixed deposit for an amount of Rs. 1,00,000/- (Rupees One Lakh only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive

Parents have agreed to handover investment receipts to the Adopted child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

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

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

32. There shall be no order as to costs.

[R.I. CHAGLA J.]