

Ashish

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

**INDIAN ADOPTION PETITION NO. 19 OF 2024
WITH
JUDGE'S ORDER NO. 25 OF 2024**

**Shraddhanand Mahilashram Through ...Petitioner
Superintendent Kshama Joshi**

And

**1. Mr. Jyotiba Kautik Jagtap ...Prospective
2. Mrs. Sneha Jyotiba Jagtap Adoptive
Parents**

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

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

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

Mr. Jyotiba Kautik Jagtap & Ms. Sneha Jyotiba Jagtap a/w Kum.
Kabir Jyotiba Jagtap present.

CORAM : R.I. CHAGLA, J.

DATE : 14th FEBRUARY, 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner-
Institution and the Prospective Adoptive Parents, have sought

adoption of male minor Sahil (“**the said male minor**”) born on 24th September, 2022.

2. The said male minor was admitted to the Petitioner Institution on 06/10/2022 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 06/10/2022 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. Thereafter the birth mother executed a Deed of surrender before the CWC on 14/10/2022, for the said male minor’s further rehabilitation. The Custody Order of the CWC is on record at Page No.23 to the Petition.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the CWC, Mumbai City II, declared the said male minor “Legally Free for Adoption” on 19/12/2022. The Free for adoption Certificate is on record at page No. 22 to the Petition.

4. The Prospective Adoptive Parents are residing at Vangani, Dist. Thane, Maharashtra aged about 35 and 31 years respectively. They have been married for the past 10 years (25/05/2013) with no biological children.

5. The motivation letter from the Prospective Adoptive Parents is on record at page 33 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. 123-127 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 23/06/2023 is on record at page No. 21 to the Petition and it states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

8. The Health report dated 07/06/2023 of the Prospective Adoptive Parents states, "They are not suffering from any major illness. They are medically, physically and mentally fit to adopt the child". Their HIV and HBsAg test reports certify the case as Negative. The said reports are on record at page Nos. 27-32 to the Petition.

9. The Prospective Adoptive Father is working as a Senior Officer-Collection with Indiabulls Housing Finance Ltd., Mumbai since 06/03/2019 and his monthly (April-2023) gross salary is Rs. 32,250/-. His Pay Slips and Form No.16 are on record at page

Nos. 41-59 to the Petition. The Prospective Adoptive Mother is a Homemaker.

10. The Proof of Residence & copies of Pan Card and supportive financial documents are on record at page Nos. 34-36 & 60-71 to the Petition.

11. The home study report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos. 72-87 to the Petition.

12. The home study Report Part II: Assessment reports dated 25/10/2018 and 24/05/2023 by the Social Worker of “Janani Ashish Charitable Trust”, Dombivli, Dist. Thane have found the Prospective Adoptive Parents suitable for adopting a child. The said reports are on record at page Nos. 88-99 to the Petition.

13. The child security undertaking dated 23/06/2023 given by the Prospective Adoptive father’s cousin brother and sister-in-law residing at Nashik to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 107-110 to the Petition.

14. Medical Examination Report dated 30/04/2023 of the said male minor states “Health Status: Normal. General level of activity: Active”. The proposed adopters have countersigned the said report, which is on record at Page Nos. 113-119 to the Petition.

15. The HIV report of the said male minor dated 24/12/2022 certifies the case as Non reactive. The said report is on record at page No. 121 to the Petition.

16. The Post Card Size Photograph of the said male minor is on record at page No. 122 to the Petition.

17. As regards the change of name, the Prospective Adoptive Parents desire the said male minor ‘**Sahil**’ be renamed as “**Kabir Jyotiba Jagtap**”.

18. 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 the said male minor. The said declaration is on record at page No. 37-37a to the Petition.

19. The Pre-adoption foster care undertaking dated 23/06/2023 is on record at page Nos. 38-40 to the Petition.

20. The undertaking dated 08/06/2023 by the Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombivli, Thane, Maharashtra for furnishing post adoption follow-up reports is on record at page No.128 to the Petition.

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

22. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation of the Indian Council of Social Welfare dated 22nd January, 2024, which is taken on record and marked ‘X’ for identification.

23. Having considered the material on record as well as the Report/Representation of the 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 Proposed Adoptive Parents.

24. 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

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

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.”*

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

26. 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 Kabir Jyotiba Jagtap 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 Kabir Jyotiba Jagtap born on 24/09/2022 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 SAHIL to “Kabir Jyotiba Jagtap”.

27. 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. They also undertake not to withdraw this investment till the Adopted Child attains majority. They further agree to handover the investment receipts to the Adopted Child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

28. The Judge’s Order is also accepted and signed separately.

29. The present Indian Adoption Petition is accordingly, disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]