

Kavita S. J.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INDIAN ADOPTION PETITION NO.8 OF 2024
WITH
JUDGE'S ORDER NO.14 OF 2024
IN
INDIAN ADOPTION PETITION NO.8 OF 2024

Vatsalya Trust, Mumbai.

...Petitioner

And

Mayank Chandrakant Shah & Anr.,

...Co-Petitioner /Prospective
Adoptive Parents

Ms. Sangeeta Nagpal, Advocate for Petitioners.

Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.

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

CORAM : R.I. CHAGLA, J.

DATE : 18TH JANUARY, 2024.

ORDER :

1. By this Indian Adoption Petition, the Petitioner and Proposed Adoptive Parents have sought adoption of the female minor Shreemayi ("**the said female minor**") born on 27th February, 2023.

2. The biological mother surrendered the said female minor before the Child Welfare Committee (CWC), Mumbai Suburban District on 03/03/2023 and the said female minor child's custody

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was given to the Petitioner institution on the same day. On 09/03.2023 according to its order, the CWC, Mumbai Suburban District recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). The Admission Order is on record at Page No. 105 to the Petition.

3. After making due inquiry under Section 38 of said Act, the CWC, Mankhurd, Dist. Mumbai declared the said female minor “Legally Free for Adoption” on 01/06/2023. The Free for adoption Certificate is on record at Page Nos. 103-104 to the Petition.

4. The Prospective Adoptive Parents are Indian nationals residing at Jogeshwari, Mumbai aged about 35 years and 34 years respectively, having been married for the past 10 years (23/02/2014) with no biological children.

5. The Motivation Letter of the Proposed Adopters is on record at Page No. 84 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said female minor is on record at Page Nos. 114-119 to the Petition.

7. The Minutes of Adoption Committee Meeting held on 23/08/2023 is on record at Page No.100 to the Petition. The Committee has decided that the Prospective Adoptive Parents are suitable to adopt the said female minor.

8. The Medical report of the Prospective Adoptive Parents dated 25/08/2023 states that they do not suffer from any infectious or contagious disease and they are fit to adopt a child. Their HIV (I & II) and HBsAg test reports certify the case as Negative. The said Reports are on record at Page Nos. 32-38 to the Petition.

9. The Prospective Adoptive father is self-employed (running a Food Zone Super Market at Jogeshwari since 2010) and his income for the Assessment Year 2022-23 is Rs. 5,45,370/-. The business License and Income Tax returns are on record at Page Nos. 40-46 to the Petition.

10. The Prospective Adoptive Mother is working as a Head of Operations with Jainam Broking Limited, Mumbai and her monthly (April 2023) gross salary is Rs. 40,000/-. Her pay slips and Income Tax Returns are on record at Page Nos. 47-52 to the Petition.

11. The copies of PAN card, Proof of Residence and supportive

financial documents are on record at Page Nos. 24, 26, 39 and 53-54 to the Petition.

12. The child care arrangement plan undertaking of the mother of Prospective Adoptive Father is on record at Page Nos. 85-86 to the Petition.

13. The Home Study Report Part I Self Assessment by the Prospective Adoptive Parents is on record at Page Nos. 69-77 to the Petition.

14. The Home Study Report Part II: Assessment report dated 12/11/2022 of the Specialized Adoption Agency “St. Catherine’s Home”, Andheri, Mumbai is on record and the report has found the Prospective Adoptive Parents suitable for adopting a child. The said Home study report is at Page Nos. 78-83 to the Petition.

15. The child security undertaking dated 16/08/2023 given by the Prospective Adoptive Father’s brother and sister-in-law residing at Vile Parle, Mumbai to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at Page Nos. 87-88 to the Petition.

16. The Pre-adoption foster care undertaking dated 14/08/2023 is on record at Page No.107-108 to the Petition.

17. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor. The said declaration is on record at Page Nos. 109-110 to the Petition.

18. The Medical Examination of the said female minor dated 21/07/2023 states, "Health status of the child: Normal child. Overall Observation of the child: Up to now her overall development is within normal limits." The Prospective Adoptive Parents have countersigned the said report. The said report is on record at Page Nos. 92-98 to the Petition.

19. The HIV report of the said female minor dated 14/07/2023 certifies the case as Negative. This report is on record at Page No.99 to the Petition. The Post Card Size Photograph of the said female minor is on record at Page No.111 to the Petition.

20. As regards the change of name, the Proposed Adopters desire that the said female minor 'Shrimayee' be renamed as

“Vihana Mayank Shah”.

21. The undertaking dated 09/08/2023 given by the authorities of Specialized Adoption Agency “St. Catherine’s Home”, Andheri, Mumbai for furnishing post adoption follow-up reports is on record at Page No. 113 to the Petition.

22. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 05/07/2025.

23. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 4th January, 2024 which is taken on record and marked ‘X’ for identification.

24. Having considered the material on record as well as the Report of the Scrutiny Officer dated 4th January, 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 Parent.

25. 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.”

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

27. In view of the above, the Petition is allowed in terms of the prayer clauses (a) to (e), which reads thus :

“(a) For adoption of the proposed female minor Shrimayee @ Vihana Mayank Shah, born on 27/02/2023 by the Proposed Adopters;

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parental rights, privileges and responsibilities over the said minor baby Vihana Mayank Shah.

(c) That the Proposed Adopters be granted permission to change the name of minor Shrimayee to Vihana Mayank Shah.

(d) That the concerned Municipal Authority/Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said minor Vihana Mayank Shah born on 27/02/2023 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(e) 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.

28. Judge's order is accepted and signed separately.

29. 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 Adopted Child. They also undertake that they will not withdraw this investment till the Adopted Child attains majority. They agree to handover the investment receipts to the Adopted Child on her becoming a major. This undertaking is accepted as an undertaking to this Court.

30. The present Indian Adoption Petition is accordingly, disposed of.

31. There shall be no orders as to costs.

[R.I. CHAGLA, J.]