

Manoj Wakle

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

INDIAN ADOPTION PETITION NO. 56 OF 2024
WITH
JUDGE'S ORDER NO.82 OF 2024
IN
INDIAN ADOPTION PETITION NO. 56 OF 2024

Family Service Centre, Mumbai

...Petitioner

And

Mr. Soumendra Kumar Padhi And
Mrs. Amruta Machetty

...Proposed
Adoptive Parents

Mr. R.K.L. Kapoor i/by Mrs. Rakesh K. L Kapoor & Co. for the
Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

Mr. Soumendra Kumar Padhi- Adoptive Father, Mrs. Amruta
Machetty- Adoptive Mother present along with minor Kum. Akshara
Padhi.

CORAM : R.I. CHAGLA J

DATE : 12th JUNE, 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the
Proposed Adoptive Parents have sought adoption of the female minor

Vanya (“the said female minor”) born on 30/08/2023. The birth mother surrendered the said female minor before the Child Welfare Committee, (CWC), Mumbai City-I on 16/10/2023 and the said female minor’s safe custody was given to the Petitioner institution on the same day as per the order of the CWC dated 16/10/2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. The Admission Order of the CWC is on record at page No. 22 to the Petition.

2. 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 female minor “Legally Free for Adoption” on 19/12/2023. The Free for adoption order is on record at page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Malad West, Mumbai, aged about 41 and 40 years respectively. They have been married for the past 11 years (30/05/2013) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 33 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 is on record at page Nos.108-112 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 04/03/2024 is on record at page No. 19-20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said female minor.

7. The Medical Report of the Prospective Adoptive Parents dated 23/02/2024 states that “they are physically and mentally fit for the adoption”. Their HIV I & II and Hepatitis B test reports certify the case as Non-reactive. These reports are on record at page Nos. 27-32 to the Petition.

8. The Prospective Adoptive Father is self-employed (Filmmaker) and his income for the Assessment Year 2023-24 is Rs.41,46,280/-. His Income Affidavit and Income Tax Returns are on record at page Nos. 50-54 to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The Proof of Residence, copies of Pan Cards and other supportive financial documents are on record at page Nos. 34-44 & 55-65 to the Petition.

10. The Home Study Report Part I: Self Assessment by the

Prospective Adoptive Parents is on record at page Nos. 66-74 to the Petition.

11. The Home Study Report Part II: Assessment Report dated 01/02/2022 of the Specialized Adoption Agency “Bal Anand” Worldchildren Welfare Trust India, Chembur, Mumbai has found the Prospective Adoptive Parents suitable for adopting a child. The said Report is on record at page Nos. 75-84 to the Petition.

12. The child security undertaking dated 05/03/2024 given by the Prospective Adoptive Mother’s brother and sister-in-law residing at Hyderabad, Telangana to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is on record at page No. 92 to the Petition.

13. The Medical Examination Report of the said female minor dated 08/02/2024 states, ‘Health Status: Normal. Overall Observation of the child: Seems appropriate’. The Prospective Adoptive Parents have countersigned the Medical Examination Report which is on record at page Nos. 97-103 to the Petition.

14. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor ‘Vanya’ be renamed as “Akshara Padhi”.

15. The HIV test report of the said female minor dated 03/01/2024 certifies the case as Non Reactive. This report is on record at page No. 106 to the Petition.

16. The Post Card Size Photograph of the said female minor is on record at page No. 107 to the Petition.

17. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as the Adoptive Parents of the said female minor. This Declaration is on record at page Nos. 45-46 to the Petition.

18. The Pre-adoption foster care undertaking dated 05/03/2024 is on record at page Nos. 47-49 to the Petition.

19. The undertaking dated 23/02/2024 given by the Specialized Adoption Agency “Bal Anand” Worldchildren Welfare Trust India, Chembur, Mumbai for furnishing post adoption follow-up reports is on record at page No. 113 to the Petition.

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

21. Mr. O. Hareendran, Scrutiny Officer has tendered the Report/Representation from the Indian Council of Social Welfare (ICSW) dated 02/05/2024 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 which is marked 'X', I am of the view that it would be in the interest of the said female minor child that she is adopted by the Proposed Adopters.

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 in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor **Akshara Padhi**.*
- (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 female minor **Akshara Padhi** born on **30/08/2023** 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 ‘**Vanya**’ to ‘**Akshara Padhi**’ born on **30/08/2023**.”*

26. In The Judge’s Order there is an undertaking of the Adoptive Parents to invest the sum of Rs. 2,00,000/- (Rupees Two Lakhs only) in the name of the Adopted Child and further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. These undertakings are accepted as undertakings to this Court.

27. The Judge's Order is accepted and signed separately.
28. The present Indian Adoption Petition is accordingly, disposed of.
29. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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