

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

INDIAN ADOPTION PETITION NO. 88 OF 2024
WITH
JUDGE'S ORDER NO. 136 OF 2024
IN
INDIAN ADOPTION PETITION NO. 88 OF 2024

Bal Anand Worldchildren Welfare Trust ...Petitioner

And.

1. Mr. Vishwanath S. Uparkar ... Proposed Adoptive
2. Mrs. Vaidehi V. Uparkar. Parents.

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

Ms. Vandana Chinchakar, Scrutiny Officer-ICW present.

Mr. Dilip S. Gurav, Chamber Registrar present.

Mr. Vishwanath S. Uparkar, Mrs. Vaidehi V. Uparkar and
Master Vihan Uparkar present.

CORAM : R. I. CHAGLA, J.

DATE : 18 OCTOBER 2024

ORDER :

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

Datta (“**the said male minor**”) born on 15th May 2020. The said male minor was found abandoned by the Chembur Police Station, Mumbai on 28th September 2022 and produced before the Child Welfare Committee, (CWC), Mumbai Suburban-I, and the said male minor was admitted to the Petitioner Institution on 29th September 2022. On 29th September 2024 through its order, the said CWC recognized that admission under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The admission order of the CWC is on record at page No. 24 to the Petition.

2. After making due inquiry under section 38 of the said Act the CWC, Mumbai Suburban District, Mumbai declared the said male minor Datta “Legally Free for Adoption” on 27th July 2023. The Free for Adoption Certificate is on record at page Nos. 22-23 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, residing at Kanjurmarg, Mumbai aged about 56 and 54 years respectively. They have been married for the past 20 years (29th February 2004) with no biological children.

4. The Motivation Letter from the Prospective Adoptive

Parents is on record at page Nos. 33-34 to the Petition.

5. The Minutes of Adoption Committee Meeting held on 5th March 2024 is on record at page Nos.20-21 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

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. 128-132 to the Petition.

7. The Medical report of the Prospective Adoptive Parents dated 24th June 2024 states that they are mentally and physically fit to adopt a child. Their HIV I & II and Hepatitis B test reports certifies the case as Non-Reactive. These reports are on record at page Nos. 28-32 to the Petition.

8. The Prospective Adoptive Father is working as a Driver with Bombay Port Trust (BPT Hospital, Wadala), Mumbai since 1993 and his gross salary for the Assessment Year 2023-34 is Rs.12,28,703/-. His Income Tax Return and Pay Slips are on record at page Nos.46-67A to the Petition. The Prospective Adoptive Mother is a Homemaker.

9. The proof of Residence, Pan Card copies and other supportive financial documents are on record at page Nos. 35-37 & 68-75 to the Petition.

10. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos. 79-90 to the Petition.

11. The Home Study Report Part II: Assessment Reports dated 17th October 2018 and 6th January 2022 of the Specialized Adoption Agency “Vatsalya Trust” Kanjurmarg, Mumbai have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos. 91-99 to the Petition.

12. The child security undertaking dated 9th March 2024 of the Prospective Adoptive Father’s niece residing at Kanjurmarg, Mumbai to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 109-111 to the Petition.

13. The Medical Examination Report of the said male minor dated 9th November 2023 states “Health status : Normal. Overall Observation of the child : The said male minor referred to Sion

Hospital for IQ and behavioral assessment mainly because of concerns about his communication and language skills. As per Assessment, he was advised need for behavioral therapy. He is independent in his daily activities.” The Prospective Adoptive Parents have countersigned the said report, which is on record at page Nos. 115-124 to the Petition.

14. The HIV Report of the said male minor dated 19th June 2024 certifies the case as Negative. This Report is on record at page No. 126 to the Petition. Post card size photograph of the said male minor is on record at page No.127 to the Petition.

15. 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 Nos. 38 to the Petition.

16. The pre-adoption foster care undertaking dated 19th March 2024 is on record at page Nos. 39-43 to the Petition.

17. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor “Datta” be renamed as “Vihan

Vishwanath Uparkar”.

18. The Undertaking dated 1st July 2024 given by the Specialized Adoption Agency “Vatsalya Trust” Kanjurmarg, Mumbai for furnishing post adoption follow-up reports is on record at page No. 133 to the Petition.

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

20. The Scrutiny Officer present at today’s hearing has tendered the Report of Mr. O. Hareendran, Scrutiny Officer of Indian Council of Social Welfare dated 17th September 2024, which is taken on record and marked “X” for identification.

21. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer dated 17th September 2024, which is marked X, I am of the view that it would be in the interest of the said male minor child, that he is adopted by the Proposed Adopters.

22. 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.”*

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

24. 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 minor Vihan Vishwanath Uparkar 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 male 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 Vihan Vishwanath Uparkar, born on 15th May 2020 and stating that thereon that the Prospective Adoptive Parents as the Parents of the said minor.

(d) That the Prospective Adoptive Parents be allowed to change the name of the minor from 'DATTA' to "Vihan Vishwanath Uparkar" born on 15/05/2020.

25. There is an undertaking of the Adoptive Parents in the Judge's order to invest a sum of Rs. 1,00,000/- in the name of Adopted Child. They also undertake not to withdraw this investment till the Adopted Child attains majority. They agree to hand over the investment receipts to the Adopted Child on his becoming a major. These undertakings are accepted as undertakings given to this Court.

26. The Judge's order is accepted and signed separately.

27. The Indian Adoption Petition is accordingly disposed of.

There shall be no order as to costs.

[R. I. CHAGLA J.]

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KAMBLE

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by KISHOR
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2024.10.23
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