

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

INDIAN ADOPTION PETITION NO. 91 OF 2024
WITH
JUDGE'S ORDER NO. 138 OF 2024
IN
INDIAN ADOPTION PETITION NO. 91 OF 2024

Vatsalya Trust, Mumbai

...Petitioner

And.

1. Mr. Ashish Sinha
2. Mrs. Priti Sinha

... Proposed Adoptive
Parents.

Ms. Aarti Kulkarni, Advocate for the Petitioner.

Ms. Vandana Chinchakar, Scrutiny Officer-ICW present.

Mr. Dilip S. Gurav, Chamber Registrar present.

Mr. Ashish Ratankumar Sniha – Proposed Adoptive Father

Ms. Priti Ashish Sinha – Proposed Adoptive Mother alongwith

Kum. Advik Sinha – Minor present.

CORAM : R. I. CHAGLA, J.

DATE : 16 OCTOBER 2024

ORDER :

1. By this Indian Adoption Petition, the Petitioner and the

Proposed Adoptive Parents have sought adoption of the male minor Anuj (“**the said male minor**”) born on 13th May 2023. The biological mother had surrendered the said male minor before the Child Welfare Committee, (CWC), Mumbai Suburban District on 18th May 2023, and the child’s safe custody was given to the Petitioner Institution on the same day as per order of CWC dated 18th May 2023 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. 21 to the Petition.

2. After making due inquiry under section 38 of the said Act the CWC, Mankhurd, Dist. Mumbai declared the said male minor “Legally Free for Adoption” on 18th July 2023. The Free for adoption Certificate is on record at page Nos. 23-24 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals, presently residing at Panvel, Dist. Raigad, Maharashtra, aged about 39 and 36 years respectively. They have been married for the past 9 years (27th April 2015) with no biological children.

4. The Motivation Letter from the Prospective Adoptive Parents is on record at page No. 35 to the Petition.

5. 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. 152-157 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 17th May 2024 is on record at page No.20 to the Petition. It states that the Prospective Adoptive Parents are suitable to adopt the said male minor.

7. The Medical report dated 7th May 2024 of the Prospective Adoptive Parents state that they are mentally and physically fit to adopt a child. Their HIV and HbsAg test reports certify the case as Non Reactive. These reports are on record at page Nos. 28-34 to the Petition.

8. The Prospective Adoptive Father is working as an Assistant General Manager – Finance with Godavari Biorefineries Ltd., Mumbai since 3rd October 2012 and his monthly (April-2024) gross salary is Rs.1,35,319/-. His appointment letter, From No.16 and pay slip are on record at page Nos.50-67 to the petition. The Prospective Adoptive Mother is currently a homemaker.

9. The copies of Pan Card, proof of residence and

supportive financial documents are on record at page Nos. 36-41 and 85-99 to the Petition.

10. The Home Study Report Part I: Self Assessment Reports by the Prospective Adoptive Parents is on record at page Nos. 100-109 and 115-124 to the Petition.

11. The Home Study Report Part II: Assessment Reports dated 1st December 2020 and 17th November 2023 by the Specilalized Adoption Agency “Children of the World (India) Trust” Nerul, Navi Mumbai have found the Prospective Adoptive Parents suitable for adopting a child. These reports are on record at page Nos. 110-114 and 125-138 to the Petition.

12. The child security undertaking dated 4th May 2024 of the Prospective Adoptive Father’s brother and sister-in-law residing at Bangalore, Karnataka to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos. 135-138 to the Petition.

13. The Medical Examination Report of the said male minor dated 27st October 2023 states “Health status of the child: Normal. Overall observation of the child : Up to now, his overall development

is within normal limits”. The Prospective Adoptive Parents have countersigned the said report, which is on record at page Nos. 142-148 to the petition.

14. The HIV Report of the said male minor dated 10th October 2023 certifies the case as Negative. This Report is on record at page No. 150 to the Petition. The photograph of the said male minor is on record at page 151 to the petition.

15. The Declaration of consent and undertaking by the Prospective Adoptive Parents state 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. 42-45 to the petition.

16. The pre-adoption foster care undertaking dated 18th May 2024 is on record at page Nos. 46-49 to the Petition.

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

18. The Undertaking dated 3rd May 2024 given by the

Specialized Adoption Agency “Children of the World (India) Trust” Nerul, Navi Mumbai for furnishing post adoption follow-up reports is on record at page No. 160 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 July 2025.

20. Ms. Vandana Chinchakar, the Scrutiny Officer present for today’s hearing has tendered the Report of Mr. O. Hareendran, Scrutiny Officer of Indian Council of Social Welfare dated 7th October 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 7th October 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.

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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 child in Adoption and be declared as parents and has 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

Shivansh Nishanth Ladda, born on 22nd February 2023 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 Ansh to "Shivansh Nishant Ladda" born on 22/02/2023.

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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