

Sharada

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

INDIAN ADOPTION PETITION NO.61 OF 2024

WITH

JUDGE'S ORDER NO.91 OF 2024

IN

INDIAN ADOPTION PETITION NO. 61 OF 2024

Family Service Centre Through its
Deputy Director/ Authorised Signatory
Ms. Sheetal Rebello

...Petitioner

And

Rupesh Tarachand Sonwane and Kanchan
Rupesh Sonwane

...Prospective
Adoptive Parents

Mr. Rakesh Kapoor i.by Mr. Rakesh K. Kapoor & Co, Advocate for the
Petitioner.

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

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

CORAM : R.I. CHAGLA, J.

DATE : 16TH JULY 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the

Prospective Adoptive Parents have sought adoption of the male minor Viaan (“**the said male minor**”) born on 30/08/2023. He was admitted to the Petitioner institution on 01/09/2023 as per the order of the Child Welfare Committee (CWC), Mumbai City-I dated 01/09/2023 under the Provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (“the said Act”). Thereafter on 06/09/2023 the birth mother executed a Deed of Surrender before the said CWC, Mumbai City-I for the child’s further rehabilitation. 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 said Act, the CWC Mumbai City-II declared the said male minor Viaan “Legally Free for Adoption” on 06/11/2023. The Free for Adoption Certificate is on record at page No.21 to the Petition.

3. The Prospective Adoptive Parents are Indian nationals residing at Nagpur, Maharashtra, aged about 40 and 37 years respectively. They having married for the past 12 years (12/02/2012) 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 male minor is on record at page Nos.107-111 to the Petition.

6. The Minutes of Adoption Committee Meeting held on 16/01/2024 is on record at page Nos.19-20 to the Petition. It states that the Adoptive Parents are suitable to adopt the said male minor.

7. The Medical Report dated 03/01/2024 of the Prospective Adoptive Parents are on record and it states,“The health of the Prospective Adoptive Parents do not disqualify them in parenting a child in anyway”. Their HIV I & II and Hepatitis B test reports certify the case as Non reactive. These report are on record at page Nos.27-32 to the Petition.

8. The Prospective Adoptive Father is self employed (Proprietor of Sai Gajanan Tours & Travels) and his income for the Assessment Year 2023-24 is of Rs.7,87,250/-. His Income Affidavit and Income Tax Returns are on record at Page Nos.42-50 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.34-36 &

51-53 to the Petition.

10. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.54-67 to the Petition.

11. The Home Study Part II : Assessment Reports dated 11/07/2020 and 07/10/2023 of the Specialized Adoption Agency, “Matru Sewa Sangh Foundling Home”, Nagpur have found the Prospective Adoptive Parents suitable for Adopting a child. The said reports are on record at page Nos.68-81 to the Petition.

12. The child security Undertaking dated 18/01/2024 by the Prospective Adoptive Parents father’s First cousin brother and sister-in-law residing at Nagpur, Maharashtra to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.90-91 to the Petition.

13. The Medical Examination Report of the said male minor dated 30/10/2023 states, “Health Status: Normal. Overall Observation of the child: Grown well, developmentally normal”. The Prospective Adoptive Parents have countersigned the said Report which is on record at page Nos.96-102 to the Petition.

14. As regards the change of name, the Prospective Adoptive Parents desire that the said male minor “Viaan” be renamed as “Devansh Rupesh Sonwane”.

15. The HIV Test Report of the said male minor dated 17/11/2021 certifies the case as Negative. This report is on record at page No.142 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.143 to the Petition.

16. The Declaration of consent, willingness and undertaking by the Prospective Adoptive Parents states that they are willing to be appointed and declared as Adoptive Parents of the said male minor. The said Declaration is on record at page Nos.37-38 to the Petition.

17. The Pre-adoption foster care undertaking dated 18/01/2024 is on record at page Nos.39-41 to the Petition.

18. The undertaking dated 12/05/2024 given by the authorities of District Women and Child Development Officer, Nagpur for furnishing post adoption follow-up reports is on record at page Nos.112-112A 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 05/05/2025.

20. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 19/06/2024 which is taken on record and marked 'X' for identification.

21. Having considered the material on record as well as the Report of the Scrutiny Officer dated 19/06/2024 marked 'X', in my view, 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 child in Adoption and be declared as parents having all parental legal rights, Privileges and responsibilities over the said minor Devansh Rupesh Sonwane”

(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 male minor Devansh Rupesh Sonwane born on 30/082023 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 ‘Viaan’ to “Devansh Rupesh Sonwan” born on 30/08/2023”.

25. 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 Adopted Child’s name. They also undertake not to withdraw this investment till the Adopted Child attains majority. They have agreed to handover the investment receipt to the Adopted Child on

his becoming a major. These undertakings are accepted as undertakings to this Court.

26. The Judge's Order is also accepted and separately signed.

27. The Indian Adoption Petition is accordingly disposed of.

28. There shall be no orders as to costs.

[R.I. CHAGLA, J.]

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