

Sharada

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

INDIAN GUARDIANSHIP PETITION NO. 3 OF 2024

WITH

JUDGE'S ORDER NO. 102 OF 2024

IN

INDIAN GUARDIANSHIP PETITION NO. 3 OF 2024

Mr. Tabrez Shafi Ahmed Shaikh and Mrs.
Nausheen Tabrez Shaikh

...Petitioners

And

Mr. Humayun Shafi Ahmed Shaikh and Mrs.
Sumbul Humayun Shaikh

...Respondents

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

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

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

Mr. Tabrez Shafi Ahmed Shaikh & Nausheen Tarbez Shaikh
alongwith Minor Anayah Humayun Shaikh and Humayun Shafi
Ahmed Shaikh and sumbul Humayun Shaikh present.

CORAM : R.I. CHAGLA, J.

DATE : 31st JULY 2024

ORDER :

1. By this Indian Guardianship Petition, the Petitioners have sought for their appointment as guardian of the proposed female minor Anayah ('the said female minor') born on 06/05/2022 at Mumbai. The said female minor is the biological daughter of the Respondents Mr. Humayun Shaikh and Mrs. Sumbul Humayun Shaikh. The Respondents have three biological children, two sons aged about 10 and 9 years and a daughter (the said female minor) aged about two years. The Respondent No.1 is the younger brother of the Petitioner No.1. The said female minor was handed over to the Petitioners since she was one month old. The Petitioners have now decided to take the said minor female minor in legal guardianship with the consent of the biological parents and have accordingly filed the present guardianship petition.

2. The Consent Affidavit of the Respondents (biological parents) is on record at page Nos.81-87 to the Petition.

3. The Foster Care Agreement dated 02/06/2022 is on record at page Nos.88-91 to the Petition.

4. The Birth Certificate of the said female minor issued by the Municipal Corporation of Greater Mumbai D Ward is on record at page No.92 to the Petition.

5. The Petitioners are Indian Nationals residing at Agripada, Mumbai, aged about 48 and 36 years respectively. They have been married for the past 17 years (25/05/2007) with no biological children.

6. The Medical Fitness certificates of the Petitioners dated 29/05/2004 is on record and it states, "Both are physically and mentally fit". Their HIV and HbsAg test reports certify the case as Non-reactive. These Reports are on record at page Nos.21-24 to the Petition.

7. The motivation letter of the Petitioners is on record at page Nos.25-26 to the Petition.

8. The Petitioner No.1 is self-employed (business in Real Estate) and his income for the Assessment Year 2023-24 is Rs.72,25,550/-. The Chartered Accountant Certificate and Income Tax Returns are on record at page Nos.32-52 to the Petition. The Petitioner No.2 is a Homemaker.

9. The Proof of Residence (Passport Copy), copies of PAN and Aadhar, Net-worth Certificate and Supportive Financial Documents are on record at page Nos.27-31 & 53-62 to the Petition.

10. The home study report dated 06/03/2024 by the Social Worker Ms. Clipsy Banji, BA, MSW, PGPDm has found the Petitioners suitable for taking the said female minor in guardianship. This report is at page Nos.63-67 to the Petition.

11. The Reference / Recommendation letters from close friends are on record at page Nos.68-75 to the Petition.

12. The Child Security undertaking dated 15/06/2023 given by the elder brother and sister-in-law of Petitioner No.1, residing at Agripada, Mumbai to look after the said female minor in case of any mishap to the Petitioners is on record at page Nos.76-80 to the Petition.

13. The Medical Certificate dated 21/06/2024 of the said female minor states, "She is medically and mentally fit". The Post Card Size photograph of the said female minor is on record at page No.94 to the Petition.

14. The consent and undertaking of the Petitioners is on record at page No.95 to the Petition. This states that the Petitioners have

consented to the legal guardianship and they agree and undertake to do all such acts, deeds and things as may be necessary in the interest of the mental and physical welfare of the said female minor child.

15. Mr. O. Hareendran, Scrutiny Officer has tendered Report / Representation from the Indian Council of Social Welfare (ICSW) dated 27/07/2024 which is taken on record and marked 'X' for identification.

16. Having considered the material on record as well as the Report of the Scrutiny Officer dated 27/07/2024 marked 'X', the relief sought of the Petition is required to be granted.

17. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (c) of the Petition, which read thus:-

“(a) That this Hon’ble Court may be pleased to appoint the Petitioners as legal guardians of person of the said female minor Anayah Humayun Shaikh, born on 6th day of May, 2022.

(b) That the Notice under Section 11 of the Guardians and Wards Act, 1890 is dispensed with.

(c) That the Petitioners may be granted leave to remove the said minor outside the jurisdiction of this Hon’ble Court and to take the said minor whenever

required.”

18. In the Judge’s Order there is an undertaking of the Petitioners to adopt the said female minor within two years of their guardianship as per the judgment dated 27th October, 1999 of the then Justice Shri F. I. Rebello (2000 ALL MR 39). Further, the Petitioners have undertaken to invest an amount of Rs.2,00,000/- (Rupees Two Lakhs only) in the name of the said female minor in LIC or any Nationalized Bank and further undertaking to take Proper care, look after, educate and to bring up the said female minor as if she was the child of the Petitioners. The Petitioner have agreed to submit to this Court every six month for three years progress reports of the said female minor and copies of the said reports of the ICSW, Mumbai. These undertakings are accepted as undertakings to this Court.

19. The Judge’s Order is also separately signed.

20. The present Indian Guardianship Petition is accordingly, disposed of.

21. There shall be no orders as to costs.

[R.I. CHAGLA, J.]