

Sarada

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

INDIAN ADOPTION PETITION NO. 71 OF 2024

WITH

JUDGE'S ORDER NO.106 OF 2024

IN

INDIAN ADOPTION PETITION NO. 71 OF 2024

Bal Anand, Worldchildren Welfare Trust
Mumbai.

...Petitioner

And

Mr. Vijay Wadhwani and Mrs. Poonam
Kaushal

...Prospective
Adoptive Parents

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.

CORAM : R.I. CHAGLA, J.

DATE : 7TH AUGUST 2024

ORDER :

1. By this Indian Adoption Petition the Petitioner and the

Prospective Adoptive Parents have sought adoption of the male minor Umang (“**the said male minor**”) born on 21/06/2023. The biological mother surrendered the said male minor before the Child Welfare Committee (CWC), Mumbai Suburban-I on 21/06/2023 and the child’s custody was given to the Petitioner institution on the same day as per the order of CWC dated 22/06/2023 under the Provisions of the 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 “Legally Free for Adoption” on 12/09/2023. 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 Bangalore, aged about 37 and 36 years respectively. They have been married for the past 10 years (18/05/2014) with no biological children.

4. The Motivation Letter by the Proposed Adopters is on record at page No.38 to the Petition.

5. The Minutes of Adoption Committee Meeting held on 27/03/2024 is on record at page No.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.139-143 to the Petition.

7. The Medical Report dated 16/03/2024 of the Prospective Adoptive Parents are on record and it states, "Both are medically fit for adoption of said male minor". Their HIV I & II and Hapatitis B test reports certifies the case as Non-Reactive. These report are on record at page Nos.31-34 to the Petition.

8. The Prospective Adoptive father is working as an IT Analyst with Tata Consultancy Services, Singapore (Base Branch Bangalore) and his gross monthly (May-2024) salary is Rs.1,56,268/-. Pay Slips and Income Tax Returns are on record at page Nos.48-74 to the Petition.

9. The Proof of Residence, PAN Card copies and other supportive financial documents are on record at page Nos.39-41 &

75-80 to the Petition.

10. The Home Study Report Part I: Self Assessment by the Prospective Adoptive Parents is on record at page Nos.82-101 to the Petition.

11. The Home Study Part II : Assessment Reports dated 27/08/2020 and 19/07/2023 of the specialized Adoption Agency “Shishu Mandir Children’s Home” Bengaluru, Karnataka have found the Prospective Adoptive Parents suitable for adopting a child. The said reports are on record at page Nos.102-109 to the Petition.

12. The child security undertaking dated 20/03/2024 by the Prospective Adoptive mother’s brother residing at Indore, Madhya Pradesh to look after the said male minor in case of any mishap to the Prospective Adoptive Parents is on record at page Nos.120-122 to the Petition.

13. The Medical Examination Report of the said male minor dated 25/10/2023 states, “Health Status Normal. Overall Observation of the child: Umang is a happy child. His growth and development is age appropriate”. The Prospective Adoptive Parents have countersigned the said Report which is on record at page Nos.126-135 to the Petition.

14. The HIV Test Report of the said male minor dated 30/05/2024 certifies the case as Non Reactive. This report is on record at page No.137 to the Petition. The Post Card Size Photograph of the said male minor is on record at page No.138 to the Petition.

15. The Joint 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 No.42-44 to the Petition.

16. The Pre-adoption foster care undertaking dated 28/03/2024 is on record at page Nos.45-47 to the Petition.

17. The undertaking dated 03/04/2024 given by the Specialized Adoption Agency “Shishu Mandir Children’s Home” Bengaluru, Karnataka for furnishing post adoption follow-up reports is on record at page No.114 to the Petition.

18. As regards the change of name, the Proposed Adopters desire that the said male minor “Umang” be renamed as “Vivaan Wadhwani”.

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 23/07/2024 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 23/07/2024 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 minor Vivaan Wadhwani 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 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 Vivaan Wadhwani born on 21/06/2023 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 ‘Umang’ to “Vivann Wadhwani” born on 21/06/2023. ”

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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