

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

INDIAN ADOPTION PETITION NO. 2 OF 2025
WITH
JUDGE'S ORDER NO.4 OF 2025
IN
INDIAN ADOPTION PETITION NO. 2 OF 2025

ST. CATHERINE'S HOME)...PETITIONER

AND

S. MANOJ KUMAR)...PROSPECTIVE
ARUMIGA JAYARAJ)ADOPTIVE PARENTS

Mr.R.K.L.Kapoor, Advocate for the Petitioner.

Proposed Parents present along with child in Chamber.

Ms.Norin Jacintha D'Souza, Social Worker, present in Chamber.

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

CORAM : ABHAY AHUJA, J.

DATE : 16th JANUARY 2025
(IN CHAMBER)

ORDER :

1. This Indian Adoption Petition by the Petitioner seeks adoption of a female minor named Anisha born on 5th September 2022. Anisha was found abandoned by the MHB Colony Police Station, Borivali West, Mumbai on 5th September 2022 and was produced before the Child Welfare Committee ('CWC'), Mumbai Suburban-II on 8th September 2022 and the child's safe custody was given to the Petitioner Institution

on the same day as per the order of the said CWC dated 8th September 2022 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 Exhibit B-1 to the Petition.

2. I have heard Mr.Kapoor and also perused the various approvals and reports annexed to the Petition as well as the representation of the ICSW.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai Suburban-II declared Anisha “Legally Free for Adoption” on 14th August 2024. The Free for Adoption Certificate is on record at Exhibit B to the Petition.

4. The Prospective Adoptive Parents are Indian nationals, residing at Chennai, Tamil Nadu aged about 38 and 36 years respectively. They have been married for the past 10 years (25th August 2014) with one biological son named Rithwin Arman Manoj aged about 9 years. Rithwin’s birth certificate, health report and consent letter is on record at Exhibit C-2 to the Petition. My interaction with Rithwin has revealed that he is very excited to have a younger sister and to take care of her and play with her.

5. The Motivation letter from the Prospective Adoptive Parents is on record at Exhibit C-4. I have also interacted with the Prospective Adoptive Parents today and they are eager to adopt Anisha as they wanted a younger sister for Rithwin. Anisha has been under the foster care of the Prospective Adoptive Parents, pursuant to the Pre-adoption foster care undertaking dated 14th October 2024 which is on record at Exhibit F to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency – Petitioner in support of the adoption of Anisha is on record at Exhibit M to the Petition.

7. The Minutes of Adoption Committee Meeting held on 29th October 2024 is on record at Exhibit A to the Petition which observes that the Prospective Adoptive Parents are suitable to adopt Anisha.

8. The Medical Report of the Prospective Adoptive Parents dated 17th October 2024 is on record and it states that they are not suffering from any health problem currently and fit for adoption. Their HIV I & II and Hepatitis B test reports certify the case as non-reactive. These reports are on record at Exhibit C-3 to the Petition.

9. The Prospective Adoptive father is working as a Service Manager with Cognizant Technology Solutions India Pvt. Ltd., Chennai, since 22nd October 2007 and his monthly gross salary is Rs.1,47,967/-. The Prospective Adoptive father's Income Certificate from Zonal Deputy Tahsildar, pay slips and Income tax returns are on record at Exhibit G to the Petition.

10. The Prospective Adoptive mother is a Homemaker.

11. The copy of proof of residence is on record at Exhibit D and copies of PAN cards of Prospective Adoptive Parents are on record at Exhibit D-1 to the Petition. The Bank Fixed Deposit receipt being supportive financial document is on record at Exhibit G-1 to the Petition.

12. The Childcare plan declaration of the Prospective Adoptive Parents is on record at Exhibit E to the Petition.

13. The Home study report Part I : Self Assessment by the Prospective Adoptive Parents is on record at Exhibit H to the Petition.

14. The Home study report Part II : Assessment report dated 28th July 2023 of the social worker of Specialized Adoption Agency Varshini Illam Trust, Tirunelveli, Tamil Nadu, has also found the prospective adoptive parents suitable for adopting a child. The said report is at Exhibit H-1 to the Petition.

15. The child security undertaking dated 14th October 2024 of the prospective adoptive father's brother and sister-in-law at Bangalore, Karnataka to look after the said female minor in case of any mishap to the prospective adoptive parents is on record at Exhibit K to the Petition.

16. The Medical Examination Report dated 29th August 2024 of Anisha is on record at Exhibit L-1 to the Petition and it records the Health status of the child as a child of special need – congenial heart defects: PDA: 4mm with continuous left to right shunt . The overall observation of the child is stated to be growing well physically and mentally and that she has achieved all the expected milestones for her age. The said Medical Examination report has been countersigned by the Prospective Adoptive Parents. The prospective parents are aware of Anisha's congenital condition and seem to be perfectly alright with the

same being voluntarily desirous of taking her responsibility.

17. The HIV test report of the female minor dated 9th August 2024 certifies the case as negative. The said test report of Anisha is on record at Exhibit L-3. The post card size photograph of Anisha is on record at Exhibit L-4 to the Petition.

18. The Declaration at Exhibit E to the Petition of consent, willingness and undertaking by the prospective adoptive parents states that they are willing to be appointed and declared as the adoptive parents of the said female minor Anisha.

19. As regards the change of name, the prospective adoptive parents desire that Anisha's name be changed to Athira Arman.

20. The undertaking dated 11th November 2024 given by the Specialized Adoption Agency Varshini Illam Trust, Tirunelveli, Tamil Nadu, for furnishing post adoption follow up reports is on record at Exhibit N to the Petition.

21. Mr.O.Hareendran, Scrutiny Officer, Indian Council of Social Welfare ("ICSW") present at today's hearing has tendered his

representation dated 8th January 2025 which contains a chronology of all the approvals and reports necessary for adoption with a request to consider the same before passing the final order. The said representation is taken on record and marked “X” for the purposes of identification.

22. The Petitioner institution’s recognition as per the Representation by ICSW to place children in adoption is valid for a period up to 5th May 2025.

23. Mr.Kapoor, learned Counsel, appearing for the Petitioner has taken me through the various approvals and reports.

24. Ms.Norin Jacintha D’Souza, Social Worker, attached to the Petitioner group is present along with Anisha and informs that Anisha is in foster care of the prospective parents since two months without any complaints.

25. Having considered the material on record as well as the representation of Mr.O. Hareendran, Scrutiny Officer, ICSW, dated 8th January 2025, as well as the submissions by Mr.Kapoor for the

Petitioner and considering that Anisha has been in the foster care of the Prospective Parents without any complaints and having interacted with the Prospective Adoptive Parents as well, I am of the view that it would be in Anisha's interest that she is adopted by the Prospective Adoptive Parents. It is submitted that since the child needs special attention, the Prospective Adoptive Parents will, from time to time, take care of that aspect. Also, as noted earlier, my interaction with Rithwin, the biological son of the Prospective Adoptive Parents gives an impression that he is also very keen to have the adoptive child as a sister.

26. This Court is satisfied that the adoption is for Anisha's welfare and the Prospective Adoptive Parents also have the wherewithal to take care of her. Since she is of 2 years 4 months, it is not possible to give consideration to her wishes but as *parens patriae* I am of the view that the adoption will secure her special needs and upbringing. From the proceedings before me and the interaction with the proposed adoptive parents as well as the social worker, Mr.Hareendran, Scrutiny Officer and the learned Counsel, it does not appear to me that this is a case where any consideration has been given or agreed to be given in consideration for the adoption nor any material has been placed before me or brought to my notice to hold otherwise.

27. In view of the order dated 10th January 2023 of this Court 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, this Court has jurisdiction to consider and dispose of the present Petition. The relevant portion of said order of the 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.”

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

28. Ergo, the Petition is allowed in terms of prayer Clauses (a) to (d) which read thus :

- (a) That the Prospective Adoptive Parents be given the said child Athira Arman 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 female minor Athira Arman 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 Athira Arman, born on 5th September 2022 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 'Anisha' to 'Athira Arman'.

29. The Judge's order is accepted and signed separately. 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 the adopted child. They have also

This order has been corrected/modified vide order dated 27th January 2025

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undertaken not to withdraw this investment till the adopted child attains majority and to hand over the investment receipts to the adopted child on her attaining majority. The undertakings are accepted as undertakings to this Court.

30. The Indian Adoption Petition accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)

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