

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INDIAN ADOPTION PETITION NO. 12 OF 2025

HILDA AMBROSE FERNANDES)...PETITIONER
V/s.
FIONA AMBROSE FERNANDES)...MINOR

WITH
JUDGE'S ORDER NO.20 OF 2025

Mr. Rakesh K. Kapoor i/b Rakesh K. Kapoor &Co. for the Petitioner.
Ms. Vandana Chincholkar, Scrutiny Officer, ICSW.
Ms. Hilde Ambrose Fernandes, Adoptive mother present.
Ms. Fiona Ambrose Fernandes, present through VC.
Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : ABHAY AHUJA, J.
DATE : 13th MARCH 2025

P.C. :

1. This Adoption Petition seeks an order declaring the Petitioner as an adoptive parent of the female Fiona Ambrose Fernandes, who was under the guardianship of the Petitioner and her late husband Mr. Ambrose Duming Fernandes and for consequential reliefs.

2. Fiona was born on 22nd January, 2003 and as a minor she was in an inmate of Missionaries of Charity at Vile Parle West, Mumbai-400 056, which organisation had proposed Fiona in guardianship to the Petitioner and her late husband Mr. Ambrose Duming Fernandes vide

Indian Guardianship Petition No. 132 of 2003. No doubt the person proposed in adoption is no longer a minor.

3. By order dated 3rd December, 2003, which is at Exhibit-8 (page-50) to this Petition, the guardianship was permitted *inter alia* with an undertaking by the Petitioner and her late husband to adopt Fiona after 2 years of the guardianship as per the judgment dated 27th October, 1999 by the Hon'ble Justice Shri F. I. Rebello, as His Lordship then was (2002 ALL MR Pg 39).

4. The Petitioner is a practicing Christian and as noted above had consented to become guardian with her husband with the permission of this Court as they had no biological children of their own. Mr. Ambrose Duming Fernandes had died on 30th November, 2018. The death certificate is at page-21, Exhibit-B-2.

5. It is to be noted that the Petitioner is a homemaker and her financial status as well as health status appears to be in order. The Petitioner earns Rs.5,57,850/- from her investments as interest income. The Petitioner also has invested in a LIC policy of Rs. 1 lac by the name Komal Jeevan Plan in Fiona's name

6. The Home Study Report as well as the follow-up final report do not indicate anything untoward.

7. It is observed that the social worker has assessed Fiona, who has completed her graduation in Bachelor in Management Studies, as a friendly outgoing and expressive person facing adversities with admirable resilience and both mother and daughter share a very good bond.

8. Although Fiona is not present before me as she is traveling to Dubai, looking for a job, however, she has appeared before me through the video conferencing link and also had an interaction with her mother, which confirms the bond.

9. I also inquired from Fiona whether she would want to be an adoptive daughter of the Petitioner and she has conveyed her affirmation through the video conferencing link.

10. Mr. Kapoor has submitted that there was a delay in filing this Petition as the Petitioner was not well. On the judgment dated 27th October, 1999 of Justice F. I. Rebello (*supra*), whereby a guardian could

be appointed as an adoptive parent of her legal Ward even though the legal Ward was a major, Mr. Kapoor has submitted that it has been held in the said decision that in the absence of any legislation setting out who can adopt a person or persons, person or persons who has or have taken a child in guardianship under the Guardians and Wards Act, 1890, will have the right to petition to the Court to adopt the child. Mr. Kapoor submits that the said judgment further provides that a period of two years must have elapsed before the Court considers the Petition for adoption from the date the Court passes the order of guardianship. Mr. Kapoor submits that the undertaking in the Judge's Order also permits the adoption two years after the order of guardianship, and that this Petition has been filed after a period of two years, but after Fiona has attained majority. Mr. Kapoor submits that as an exceptional case, the present Petition may be allowed as the same would be in Fiona's interest, giving her a secure and meaningful life.

11. The ICSW has also furnished its report dated 28th February, 2025 observing that Fiona is well integrated into the adoptive family. The said report is marked 'X' for the purposes of identification.

12. It cannot be doubted that the guardianship has been without any issues or complaints.

13. In this view of the matter, I am of the opinion that it would be for Fiona's welfare that the Petition is allowed and that Fiona's parentage via guardianship would also not be questioned. Since Fiona has already attained majority, it would not be necessary for any investment in her name.

14. The Petition is accordingly made absolute in terms of the prayer Clauses (a) to (c), which read thus:-

“(a) That this Hon'ble Court may be pleased to declare the Petitioner as Adoptive Parent of the said female Fiona Ambrose Fernandes, under the guardianship of the Petitioner and her Late husband Mr. Ambrose Duming Fernandes.

(b) That this Hon'ble Court may be pleased to condone the delay in filing the present Petition.

(c) That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue Birth Certificate in the name of the said female “FIONA AMBROSE FERNANDES Born on 22.01.2023” and stating that thereon that the Petitioner Mrs. Hilda Ambrose Fernandes as mother and the said Late Mr. Ambrose Duming Fernandes as father of the said female FIONA AMBROSE FERNANDES.”

15. The Judge's Order is signed separately.