

Sharada

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

INDIAN ADOPTION PETITION NO. 47 OF 2025

WITH

JUDGE'S ORDER NO. 65 OF 2025

IN

INDIAN ADOPTION PETITION NO. 47 OF 2025

Mr. Saurabh Naresh Shah S/O. Aresh ...Petitioner No.1
Kantilal Shah

And

Mrs. Hiral Saurabh Shah Alias Jagdish ...Petitioner No.2
Malekar

Ms. Kokila Lalra along with Ms. Alifiya Manaswala Advocate for the
Petitioner.

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

Mr. Saurabh Naresh Shah, for Petitioner No.1 and Mrs. Hiral Saurabh
Shah for Petitioner No.2 present.

Ms. Diya Shah- Adopted Female present.

Ms. Prishha Shah- Daughter of Petitioner No.1 present.

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

CORAM : R.I. CHAGLA, J.

DATE : 25TH JUNE 2025

ORDER :

1. By this Indian Adoption Petition, the Petitioners are seeking Adoption of the female 'Diya' who is the biological daughter of the Petitioner No.2-Mrs. Hiral Saurabh Shah. Diya was born on 08/09/2006 at Mumbai from Petitioner No.2's to first marriage. The Petitioner No.2 was married one Jagdish Rajubhai Malekar and their biological daughter Diya is now aged about 18^{1/2} years. However the biological father of Diya i.e. Jagdish Rajubhai Malekar expired on 14/05/2014 at Mumbai. The death certificate of the biological father of Diya is on record at page No.15 to the Petition.

2. The Birth Certificate of Diya dated 07/10/2006 issued by the Municipal Corporation of Greater Mumbai is on record at page No.14 to the Petition.

3. After the demise of the said Jagdish Malekar (1st husband of the Petitioner No.2), Petitioner No.2 re-married one Saurabh Naresh Shah i.e. the Petitioner No.1 on 25/01/2020 and since then Diya has been living with them. The Guardianship Petition had been filed by the Petitioner No.1, who sought legal guardianship of Diya who at the relevant point of time was a minor, being Guardianship Petition No.19 of 2024, filed with the consent of the biological mother i.e

Petitioner No.2. This Court by an Order dated 9/11/2023 allowed the Guardianship Petition. The said Guardianship Order is on record at page Nos.45-48 to the Petition.

4. The present Adoption Petition is filed by the Petitioners as per the Judgement dated 27th October 1999 of the then Justice F.I. Rebellow in 2000 All MR pg.39 and the judgment dated 22/04/2018 of the then Justice G. S. Patel in Indian Adoption Petition No.32 of 2018.

5. The Petitioner No.1 and 2 are Indian Nationals residing at Lower Parel, Mumbai aged about 51 years and 42 years respectively. They have been married for the past 5 years (25/01/2020). The Certificate of Registration of Marriage is on record at page No.16 to the Petition.

6. The Petitioner No.1 was married earlier on 15/12/1998 and divorced on 14/10/2019 with two biological children i.e. a son aged about 23 years and a daughter aged about 20 years respectively and their permanent custody was given to their biological father i.e. the Petitioner No.1 herein. The Divorce Decree is on record at page Nos.38A-38N to the Petition.

7. The Birth Certificate, Medical certificates and consent letters of the biological children of Petitioner No.1 are on record at page Nos.22A-22B, 27A-27B and 39A-39B to the Petition.

8. The Medical Fitness Certificates of the Petitioners dated 16/04 state that both are physically and mentally in good health. The said medical fitness certificates is on record at page Nos.26-27 to the Petition.

9. The Petitioner No.1 is a self-employed-Director of Naresh Steel Industries Pvt. Ltd., Mumbai. His Income for the Assessment year 2024-25 is Rs.3,02,68,280/-. His Income Tax Return for the Assessment Year 2024-25 is on record at page No.24 to the Petition. The Petitioner No.2 is a Homemaker.

10. The Petitioners Pan and Aadhar Card copies, Proof of Residence and Bank Statements are on record at page Nos.19-23 & 28-32 to the Petition.

11. The Adoption Home Study Report dated 02/05/2025 of the Social Worker Ms. Clipsy Banji, BA, MSW, PGPDm has recommended Diya's case for Adoption, as it will be in the best interest of Diya. This Report is on record at page Nos.42-44 to the Petition.

12. The follow up Report of Diya dated 02/05/2025 is on record at page Nos.40-41 to the Petition and states that she has developed a strong and affectionate bond with her mother and adoptive step-father. She appears emotionally secure in their presence and seeks comfort and guidance from both parents indicating trust and attachment. Her relationship with her step siblings is also positive and engaging and enjoys spending time with them. She is presently pursuing Bachelors in Managements Studies from HR College, Mumbai. She wants to pursue higher studies and wants to fly abroad for the same.

13. The Reference/Recommendation Letters from the Relatives/Friends are on record at page Nos.35-38 to the Petition.

14. The Medical Certificate of Diya dated 07/03/2025 states that she is not suffering from any mental or physical illness. She is in good health. The said certificate on record at page No.25 to the Petition.

15. The Aadhar and Pan Card copies and consent letter of Diya is on record at page Nos.17-18 & 39 to the Petition.

16. Mr. O. Hareendran, Scrutiny Officer has tendered the

Report / Representation from the Indian Council of Social Welfare (ICSW) dated 23/06/2025 which is taken on record and marked 'X' for identification.

17. In the said Scrutiny Report, it is opined based on the Guardianship Petition Nos.19 of 2023 granted vide Order dated 9th November, 2023 by this Court in favour of the Petitioner No.1 and the latest home visit report/progress report prepared by the Qualified Social Worker, that Diya is well integrated into the adoptive family and it is strongly recommended that the Petitioners be considered suitable candidates to proceed with the legal adoption process.

18. The Petitioners along with Diya and their biological daughter are present in the Chamber. I have had an opportunity to interact with them and find on such interaction that they are perfectly adjusted to each other and thus, there is no impediment in considering the present Indian Adoption Petition.

19. Having considered the material on record as well as the Report of the Scrutiny Officer dated 23/06/2025 marked 'X', in my view, it would be in the interest of Diya that she is adopted by the Petitioners.

20. 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

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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.”*

21. Hence, it is clear that this Court can consider and dispose of the present Petition.

22. 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 Co-Petitioners, Mr. Saurabh Naresh Shah and Mrs. Mrs. Hiral Saurabh Shah, the adoptive parents of the female Diya Jagdish Malekar, who is presently in the care of the Petitioners.*

b. *That the Co-Petitioners Mr. Saurabh Naresh Shah and Mrs. Mrs. Hiral Saurabh Shah, may be granted leave to make an application to the Passport authorities or any other authorities for the same.*

c. *That the period of two years must elapse before the Court considers the Petition for adoption from the date the court passes the order of Guardianship to be waived*

off.”

23. The Judge's Order is also accepted and separately signed.
24. The Indian Adoption Petition is accordingly, disposed of.
25. There shall be no order as to costs.

[R.I. CHAGLA, J.]

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