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

JUDGES ORDER NO. 2 OF 2026
IN
FOREIGN ADOPTION PETITION NO. 1 OF 2026

Vatsalya Trust ... Petitioner

And

1.Mr. Marco Grech

2.Mrs. Ritienne Grech ... Prospective Adoptive Parents

Ms. Sangeeta Nagpal for Petitioner.

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

Mr. Dilip S. Gurav, Chamber Registrar present.

CORAM : FARHAN P. DUBASH, J.

DATE : 14th JANUARY 2026

ORDER:

1. By this Foreign Adoption Petition, the Petitioner and the Prospective Adoptive Parents have sought the adoption of the female minor, Nirzara, born on 28th February 2024. Nirzara was surrendered by her biological mother before the Child Welfare Committee (**CWC**), Mumbai Suburban-I on 2nd April 2024 and her safe custody was given to the Petitioner Institution, Vatsalya Trust, Mumbai, on the same day, as per the order of the CWC dated 2nd April

2024 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (**JJ Act**) The Admission Order of the CWC is on record.

2. The Child Welfare Committee, Mankhurd, Mumbai, declared Nirzara legally free for adoption by an order dated 13th June 2024 after following the necessary procedure. The required Undertakings and Affidavits have also been tendered and are taken on record. The No Objection Certificate from the Central Adoption Resource Authority (**CARA**) dated 4th July 2025 is also on record.

3. The Prospective Adoptive Parents are Maltese Nationals, residing at Mosta, Malta, aged about 51 and 43 years respectively, who have been married for the past 18 years with no biological children. Their marriage certificate has also been annexed.

4. The Prospective Adoptive Father is working as a Senior Workshop Technician (Fitter) with Engineering Resources Ltd., Malta, and his total income for the year 2024 is Euro 29,946. The Prospective Adoptive mother has been working as an Executive Officer with INDIS Malta Ltd. since 2019, and her total income for the year 2024 is Euro 26,343. On record are their proof of residence and Payee Statement of Earnings.

5. The Medical Report dated 4th November 2023 of the Prospective Adoptive Parents is on record, and their HIV reports show a negative result.

6. The Home Study Report of the authorities of Agenzija Tama, San Gwann, Malta, the Authorised Foreign Adoptive Agency (**AFFA**) has found the PAP's suitable to adopt a child between the ages of zero and 4 years old. The Home Study Report records that the Prospective Adoptive Parents are suitable enough from a psychological point of view to be entrusted with the adoption and upbringing of children. There is also on record the permission of the receiving country, Malta, as per Articles 5 and 17 of the Hague Convention (1993). In addition, the Child Security Undertaking by the cousins of the prospective adoptive mother residing at Solaris, Malta, to look after the said female minor in case of any mishap to the Prospective Adoptive Parents is also on record.

7. The other documents are in order, including the letter of acceptance, the declaration and willingness and undertakings. A copy of the General Power of Attorney in favour of the Petitioner is also on record.

8. The Medical Examination Report of the said female minor, dated 21st January 2025, is on record, and it states the health status of the child as Special Need. Her MRI of the brain, done on 15th October 2024, showed a

small area of cystic encephalomalacia/gliosis changes in the left frontal region with mild distortion of the adjacent gyri and prominence of the cortical sulci, showing gyral hemosiderin staining imaging findings are suggestive of a previous ischemic insult. It is important to note that the Prospective Adoptive Parents have countersigned this Report. Moreover, the Medical Examination Report dated 22nd January 2025 at Part E - Special Needs Condition of the child by the Department of Pediatrics Sir J. J Group of Hospitals, Mumbai, is on record. The HIV report of the said female minor, dated 3rd September 2024, certifies the case as Negative.

9. As regards the change of name, the Prospective Adoptive Parents desire that the said female minor, Nirzara be renamed as “Francesca Grech”.

10. The Petitioner Institution's recognition from the Women & Child Development, Maharashtra State, to place children in adoption is valid for a period up to 30th September 2025. However, the Petitioner institution has applied for renewal and, in the interregnum, has filed this adoption petition under the provisions of Regulation 25(4) & (5) of the Adoption Regulations 2022.

11. Moreover, Regulation 25(4) and (5) of the Adoption Regulations, 2022 provide as follows :

“(4) In case the Specialised Adoption Agency has applied for recognition or renewal with the State Government and the provisional registration certificate has not been issued by the State Government within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional recognition to run the agency for a maximum period of six months.

(5) In case the renewal of recognition of a Specialised Adoption Agency is pending, all the pending adoption cases shall be allowed to proceed, subject to all other provisions of these regulations being fulfilled.”

12. Mr O. Hareendaran, Scrutiny Officer, has tendered a Report/Representation of the Indian Council of Social Welfare dated 2nd January 2026, which is taken on record and has been marked ‘X’ for identification.

13. Having considered the material on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked X, I am of the view that it would be in the interest of the said female minor that she is adopted by the Prospective Adoptive Parents.

14. It is relevant to note here that in the case of **Nisha Pradeep Pandya and Anr v. Union of India**¹ and Ors., concerning a challenge raised to the

¹ 2023 SCC OnLine Bom 90

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 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.*

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

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

(a) *For the adoption of the Proposed female minor NIRZARA @ FRANCESCA GRECH born on 28th February 2024 by Proposed Adopters under the Juvenile Justice Act 2015.*

(b) *For declaring the Proposed Adopters as Adoptive Parents of the said minor and that they shall have all parental rights, privileges and responsibilities over the said minor girl FRANCESCA GRECH.*

(c) *That the Proposed Adopters be granted permission to change the name of the female minor Nirzara to FRANCESCA GRECH.*

(d) *That the concerned Municipal Authority / Birth Certificate issuing Authority may be directed to issue a Birth Certificate in the name of the said minor FRANCESCA GRECH, born on 28th February 2024 and stating thereon that the Prospective Adoptive Parents as the Parents of the said minor.*

(e) *That the Proposed Adopters be granted leave to remove the said minor, born on 28th February 2024, from the jurisdiction of this Hon'ble Court and to take the said minor to the USA or wherever they may reside in the future.*

17. It is directed that the Petitioner will obtain further undertakings from the Prospective Adoptive Parents that they will not give the said female minor for further adoption without the prior leave of this Court. Once this undertaking is obtained, the same shall be filed on the record of this Court.

18. The Foreign Adoption Petition is accordingly disposed of. There shall be no order as to costs.

(FARHAN P. DUBASH, J.)