

Bombay High Court

Janani Ashish Charitable Trust vs Frederic Christian ... on 8 July, 2021

Bench: D. S. Naidu

4. FAP No. 17 of 2021

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

FOREIGN ADOPTION PETITION NO. 17 OF 2021
WITH
JUDGE'S ORDER NO. 106 OF 2021

Janani Ashish Charitable Trust ...Petitioner

Versus

Frederic Christian B. Delvaux, Belgian and ...Proposed
Adoptive parents

Anr. And Flore Aachal Anelle Maureen
(Minor)

.....

Mr. Rakesh Kapoor - Advocate for the Petitioner.

Mr. O. Hareendran Nambiar, Scrutiny Officer, Indian
Council of Social Welfare, present.

Mr. D. R. Talekar - Chamber Registrar, present.

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CORAM : DAMA SESHADRI NAIDU, J.

DATE : 08th JULY 2021.

P.C. :

Heard Shri Rakesh Kapoor, the learned counsel for the Petitioner, and Shri O. Hareendran Nambiar, the Scrutiny Officer, Indian Council of Social Welfare (ICWS), in the Court through a VC link.

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2. The foreign adoption petition proposes the adoption of a girl, Aachal, born on 01/06/2015. The Kalyan Thaluka Police of Thane found the child on 19.06.2019 abandoned. On 26.06.2019, they presented the child before the Child Welfare Committee, Thane. On the same day, the Committee handed over the child to the Petitioner Institution, Janani Ashish Charitable Trust, Dombivli East, Dist Thane. Later, on 17th December 2019, the Child Welfare Committee inquired and passed the 'legally free for adoption' order under Section 38 of Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016). The order is placed on record.
3. The Affidavit by the Authorized Representative of the Specialized Adoption Agency (Petitioner) in support of adoption of child, too, has been placed on record.
4. On 01st June 2020, the Central Adoption Resource Authority (CARA), New Delhi, issued a No Objection Certificate to the proposed adoption. It is as per the applicable Adoption Regulations 2017 and Article 17(c) of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption, 1993.
5. The proposed adoptive parents are Belgians residing at Maffle, Belgium. They are about 46 and 50 Seema 2/7
4. FAP No. 17 of 2021 years old, having been married for seven years with no biological child.
6. The adoptive parents' medical reports showing that they are in good health and are not carrying any contagious diseases and that they are fit to adopt the child. All their medical reports, including their negative HIV, have also been placed on record.
7. Since 01.03.2015, the prospective adoptive father has been working as a Statutory Assistant with Wallonia Public Service, Belgium, with gross salary of 30,301.06 Euros (For the year 2019). His income and employment Certificate have been placed on record. And since July 2004, the prospective adoptive mother is a self-employed paramedical (Psychologist); her taxable profit (before tax) for 2019 was 20,186.71 Euros. Her income certificate and Income Tax Certificates have been placed on record. The adoptive parents' certificate of residence has been placed on record.
8. The childcare arrangement plan declaration, dated 12/04/2021, has also been placed on record. It states that as self-employed at home, the adoptive mother can take some time off and will be available according to child's needs. The adoptive father will be able to take parental leave.

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9. Home study report, dated 15.02.2020, by the authorities of "Enfants De L'Espoir" Belgium, has been placed on record. The report indicates that the prospective adoptive parents appear to be a 'united and symbiotic' couple. They support each other and have emerged stronger from the crisis they experienced. They have learned a lot not only about adoption but also about themselves, and they have all the required psychosocial abilities to adopt a child of Indian origin in good health. After assessing the adoptive parents, the social worker recommended the couple to adopt a child of Indian origin, a healthy boy or girl, aged 5 to 6 years. Along with the home study report, the adoptive parents' psychological evaluation report, dated 30th September 2019, has also been placed on record. And a thorough evaluation, the psychologist has found that the adoptive couple have all the psychological and emotional abilities required to become parents of a child taken in an intercountry adoption.

10. The Article "5" letter, dated 30/04/2020, Article 17 Letter, dated 23/03/2020, of Hague Convention from the Adoption Department-Central Authority, Belgium, and Suitability order, dated 27/06/2019, of the Family Court of Tournai, Belgium, have been placed on record.

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11. The minor's medical examination report is on record. It reveals the "Overall Observation of the child: She is a 4½ years old happy and content girl. Her development is appropriate for age". The proposed adopters have countersigned this report. The girl's negative HIV report has also been placed on record.

12. The minor's Psychological Test Report, dated 16/12/2019, has been placed on record; it reveals the minor's social quotient as 93, indicating the child to have adequate social intelligence appropriate to her age.

13. I have seen on record the undertaking of the Authorized Foreign Adoption Agency (AFFA), "Enfants De L'Espoir" Belgium, agreeing to provide a follow-up report on the child and to make alternative arrangements if the adoptive family suffers any disruption.

14. The Special Power of Attorney duly signed by the proposed adoptive parents favouring the Petitioner Institution has been placed on record.

15. The Petitioner Institution's recognition from the Women & Child Development to place children in adoption is valid up to 31/07/2019. But the Petitioner Institution has applied for renewal and, in the meanwhile, has filed this adoption petition under Regulation 24 (5) of the Adoption Regulations 2017.

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16. Considering the material on record and

compliances noted above, this Court reckons that the adoption petition deserves to be allowed. In this regard, the report of the Scrutiny Officer, dated 03.07.2021, is taken on record and marked-'X' for identification. The additional document is taken on record and marked 'X-1' for identification.

17. The petition is, accordingly, allowed in terms of prayer clauses (a) to (f):

"(a) For the Adoption of the proposed siblings female minor Flore Aachal Amelle Maureen, born on 01.06.2015 by the Proposed Adopters under Section 59(7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor and shall have all parents rights, privileges and responsibilities over the said minor Flore Aachal Amelle Maureen now in the care and custody of Janani Ashish Charitable Trust, Plot P/37, M.I.D.C., Res. Zone, Dombivli (East) - 421 203, District Thane, Maharashtra State.

(c) That the proposed adopters be allowed to change the name of the minor AACHAL to Flore Aachal Amelle Maureen.

(d) Leave/permission be granted to apply the concern Municipal Authorities to issue the Birth Certificate of the said minor Flore Aachal Amelle Maureen.

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(e) That the Proposed Adopters may be granted leave to remove the said minor AACHAL from the jurisdiction of this Hon'ble Court and to take the said minor to BELGIUM or wherever they may reside in future.

(f) Pass such other or further orders as it may deem fit and proper on the facts and circumstances of the case.

18. Besides all the above, the Petitioner institution should obtain an additional undertaking from the adoptive parents affirming that they will not give the minor in further adoption without this Court's prior leave. Once this undertaking is secured, it shall be filed on the Court's record.

19. Today, this Court has also signed a separate Judge's Order appointing the prospective adopters as adoptive parents of minor Aachal.

20. The Adoption petition is disposed of in the aforesaid terms.

[DAMA SESHADRI NAIDU, J.] Privacy Warning: No part of this order shall be uploaded on any public domain or portal without this Court's express permission.

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