

Bombay High Court

Bal Anand vs Shaun Farrugia, Maltese National ... on 16 June, 2022

Bench: B.P. Colabawalla

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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ORDINARY ORIGINAL CIVIL JURISDICTION

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FOREIGN ADOPTION PETITION NO. 9 OF 2022

In the matter of Adoption of male
Yug @ Daniel, an inmate of Bal A
Worldchildren Welfare Trust Indi
Krupa, 93, Ghatla Village, Chemb
Mumbai 400071.

Bal Anand, Worldchildren Welfare Trust India ... Petitione
AND
Shaun Farrugia and
Claire Farrugia ... Proposed Adop

Mr. Rakesh Kapoor, for the Petitioner.
Mr. O. Hareendran, Scrutiny Officer, ICSW is present
Mr. Dilip R. Talekar, Chamber Registrar is present.

CORAM:- B. P. COLABAWALLA, J.

DATE :- JUNE 16, 2022.

P. C.:

1. This Foreign Adoption Petition is filed seeking the adoption of a male minor Yug, born on 10/08/2020. The couple who propose to adopt the minor are the residents and citizens of Malta.

The representation of the Indian Council of Social Welfare (ICSW) is also tendered before me today and taken on record and marked 'X' for identification.

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2. The said minor Yug was surrendered before the Child Welfare Committee, Mumbai Suburban District by his birth mother on 13/08/2020. The child's safe custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 13/08/2020 passed under the provisions of the Juvenile Justice (Care and Protection of Children) Act 2015 read with the Juvenile Justice Rules. The Admission Order of the CWC is on record at page No.19.

3. After making due inquiry under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), the Child Welfare Committee, Mumbai City II declared the proposed minor Yug "Legally Free for Adoption" as on 06/11/2020. The Free for Adoption Certificate is on record at page Nos. 17 to 18.

4. The Central Adoption Resource Authority (CARA), New Delhi has issued a No Objection Certificate (dated 25/02/2022) for this adoption as per the Adoption Regulations 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption 1993. The said NOC can be found at Page No. 27.

5. The undertaking/affidavit by the Petitioner institution is on record at page Nos. 21 to 26.

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6. The Proposed Adopters are Maltese nationals, both residing at Haz-Zabbar, Malta aged about 37 and 39 years respectively. They have been married for the past 13 years (15/08/2008) with no biological children.

7. The Proposed Adopters Joint Family Photograph and Copies of Passport are on record at page Nos. 28-30.

8. The Medical reports dated 20/02/2020 of the prospective adoptive parents are on record and it states "Both are in good health". Their HIV and HBsAg Test Reports certify the case as Negative. These reports are at Page Nos. 34 to 39.

9. The Motivation Letter of the proposed Adopters is on record at page No. 40.

10. The Prospective Adoptive father is working as an Assistant Engineer with ST Microelectronics (Malta) Ltd., since 2005 and his annual base salary is Euro 22,887.03. His Employment & Income certificate is on record at page No. 41.

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11. The Prospective Adoptive mother is working as a Teacher with the Ministry of Education, Government of Malta, since 2005 and her annual salary is Euro 28,843 plus class allowance of Euro 3,000 per annum. Her Employment & Income Certificate is on record at page No. 42.

12. The Tax Certificates, Bank Reference and Proof of Residence are on record at page Nos. 43-51.

13. The Childcare Management Plan Declaration from the proposed adopters is on record at page No. 52.

14. The home study report dated 09/02/2019 by the authorities of "Adoption Agenzija Appogg", Malta is on record and the report has found the proposed adopters suitable for adopting a child between the ages of 0 to 2 years. The said home study report is at page Nos. 53 to 72.

15. The Psychological Evaluation Report dated 11/02/2019 of the prospective adoptive parents by the Registered Clinical Psychologist is on record and the said report has found that the proposed adopters are stable and mature young adults who possess the right qualities to Laxmi page 4 of 8

1. fap 9-22..doc become parents of their future adoptive child. The said report can be found at page Nos. 73 to 90.

16. The Approval Certificates dated 16/03/2020 & 07/02/2022 by the Malta Central Authority, SCSA -Social Care Standards Authority, Malta as per Article 5 and 17 of the Hague Adoption Convention are on record at page Nos. 91-92.

17. The child Security undertaking dated 16/01/2022 of the proposed adopters sisters, both residing at Malta, to look after the proposed minor in case of any mishap to the Proposed Adopters is on record at page No. 117.

18. The Medical Examination report of the minor dated 02/08/2021 is on record and it states "Health Status: Special Need child-Convulsions. Over all observation of the child:"Yug is 16 months old cheerful child. He needed hospitalization in the early infancy but post recovery his growth and development appears age appropriate. He has been evaluated by a pediatric Neurologist in March 2021 and as per him there are no concerns neurologically". The Proposed Adopters have countersigned this Report along with the Neurologist report dated 30/03/2021. These reports are at page Nos. 123 to 130.

19. The H.I.V. report of the proposed minor dated 06/01/2022 certifies the case as Negative. This report can be found at page No. 131. The Post Card size photograph of the minor is on record at page No. 132.

20. As regards the change of name, the proposed adopters desire that the minor 'YUG' be renamed as "Daniel". It is accordingly so ordered.

21. The joint declaration of willingness of the Proposed Adopters states that they are willing to adopt the child named Yug born on 10th August, 2020. They further undertake that they will allow personal visits by the representatives of the Authorized Foreign Adoption Agency or concerned government Department for follow up of the progress of the child as required under the Adoption Regulations. The said Declaration can be found at page Nos. 133-134.

22. The undertaking dated 02/02/2022 of the Authorized Foreign Adoption Agency (AFFA) "Adoption Agenzija Appogg", Malta to provide follow-up reports of the child and make alternative arrangements in case of disruption in the adoptive family is on record at page No. 135.

23. The Special Power of Attorney dated 01/02/2022 duly Laxmi page 6 of 8

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24. The Petitioner institution's recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid for a period up to 05/05/2025.

25. After looking at all the documents that have been placed before me and after perusing the record, in my opinion, it would be in the interest of the child if he is adopted by the proposed adopters. I therefore, do not find any impediment in granting the reliefs sought for in the above Petition.

26. In view of the foregoing discussion, the Petition is allowed in terms of prayer clauses (a) to (e) which reads thus:

(a) For the Adoption of the male minor Daniel, born on 10/08/2020 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 minor Daniel and having all parental rights, privileges and responsibilities over the said child, now in

the care and custody of the Petitioner Bal Anand, Worldchildren Welfare Trust India, Chembur, Mumbai - 400071 (c) That the proposed adopters be allowed to change the name of the minor YUG to " Daniel"

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(d) Leave/permission be granted to apply the concern Municipal Authorities to issue Birth Certificate of the said minor Daniel born on 10/08/2020 and stating that thereon that the Proposed Adopters as the Parents of the said minor.

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

27. The Judges Order is also separately signed.

28. It is directed that the Petitioner Institution shall obtain a further undertaking from the adoptive parents that they shall not give the minor child 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.

29. The Adoption Petition is accordingly disposed of. No order as to costs.

30. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(B. P. COLABAWALLA, J.)

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