

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1339 OF 2011

Ms.Dina LalaPetitioner
V/s.	
Central Adoption Resources and Ors.Respondents

Ms.Shirin Merchant for the Petitioners.

Mr.Vinod Joshi for Respondent No.1.

Mr.Joy K. Bhatia for Respondent No.2.

Mr.V.P. Malvankar, "A" Panel Counsel for Respondent No.3 – State.

Mr.O. Hareendran, Scrutiny Officer, Indian Counsel of Social Welfare for Respondent No.4 present.

CORAM : MOHIT S. SHAH, C.J. AND
S.J. VAZIFDAR, J.
MONDAY 28TH FEBRUARY 2011.

P.C. :-

1. This petition is taken up for admission. This petition is filed by the petitioner who proposes to adopt the child viz. Amrapali, who was born on 27.2.2009.

2. The Child Welfare Committee, Pune passed an order dated 25.11.2009 declaring Amrapali as destitute and that she is free for

adoption and referred to other relevant facts about the abandonment of the child on 26.7.2009. It was also specifically mentioned that since 26.7.2009 till the date of declaration on 25.11.2009 no one had approached the concerned institution or Narayangaon Police Station Pune within whose jurisdiction regarding the child was found to have been abandoned.

3. While considering the proposals for granting the No Objection Certificate for adopting Amrapali by the petitioner, CARA wants to be satisfied that the natural mother was not interested in taking the child back. The natural mother filed an affidavit dated 17.12.2010 reiterating the circumstances under which she was not interested in claiming the child back. The affidavit was also attested by three members of the Child Welfare Committee, Pune. That affidavit is produced along with the memo of the petition in a sealed envelope.

4. By our order dated 14.2.2011 it was clarified that the pendency of this petition will not preclude CARA from reconsidering the proposal for adoption of minor child Amrapali on the basis of the affidavit dated 17.12.2010 of the natural mother. The learned counsel for the petitioner states that the affidavit dated 17.12.2010 of the natural mother is accordingly attached by the members of the Child Welfare Committee, Pune, but there is no separate order declaring the child as destitute and free for adoption. The learned counsel submits that since the criminal complaint has been filed against the natural mother for abandonment, CARA is not inclined to grant the N.O.C.

5. Ms.Merchant, the learned counsel for the petitioner submits that after the declaration was made by the Child Welfare Committee,

Pune on 25.11.2009, there is no change of circumstance and that the natural mother is not claiming the child back. The natural mother in her affidavit dated 17.12.2010 has stated that she is not interested in keeping the said child. It is further submitted that the criminal complaint against the natural mother is in view of what is stated in her affidavit and also in the destitute declaration made by Child Welfare Committee, Pune on 25.11.2009.

6. Having heard the learned counsel for the parties, we find that there is substance in the submission made by learned counsel for the petitioner that the order made by the Child Welfare Committee, Pune on 25.11.2009 still stands and that there is no change in circumstances since then. On the contrary, the subsequent events particularly the affidavit dated 17.12.2010 of the natural mother in the criminal complaint filed against her confirms what was already stated in the destitute declaration dated 25.11.2009 of the Child Welfare Committee, Pune.

7. We also refer to the affidavit dated 28.2.2011 of Jagannath Patil, Deputy Director, Central Adoption Resource Authority (CARA) as under :-

“However, subsequently, CARA has received a letter dtd. 24.2.2011 from Commissionerate of WCD, Govt. of Maharashtra, Mumbai stating as under :-

“For the instant case there was objection from the State Govt. regarding source of the child and a criminal case pending against the biological mother for abandoning the child. We may take a position in the court that once the status of the source of the child is clarified by competent authority/State Govt., CARA can issue NOC in case of Amrapali.” ”

This only confirms that there is no impediment to issuance of the NOC for adoption of Amrapali.

8. In the result, the petition is allowed. CARA shall consider issuance of NOC for adoption of Amrapali on the basis of the affidavit dated 17.12.2010 of the natural mother and destitute declaration already made by Child Welfare Committee, Pune on 25.11.2009. This shall be done as expeditiously as possible and in any case within two weeks from today.

CHIEF JUSTICE

S.J. VAZIFDAR, J.