

**IN THE COURT OF THE DISTRICT JUDGE, KHURDA
AT BHUBANESWAR.**

C.M. Appl. No. 124 of 2014.

1. Sister Superior, Missionaries of Charity,
Nirmala Shishu Bhawan, represented through its
Sister-in-charge (Adoption), Sister Marita M.C.,
aged about 59 years, At - Plot No.13,
Satyanagar, P.S. - Kharavelanagar,
Bhubaneswar, Dist. - Khurda.
2. Salim H., aged about 46 years,
S/o. Hameed Kunju.
3. Saleena A., aged about 36 years,
W/o. Salim H.
Both petitioner Nos.2 & 3 are At - Marutharayil,
P.O. - SRPM, Thazhava, P.S. - Karunagappally,
Dist. - Kollam, Kerala.

... **Petitioners.**

Counsel for petitioners : Shri R.K. Sahu & Associates.

Date of Argument : 21.11.2014.

Date of Order : 29.11.2014.

No.06, Dated 29.11.2014.

O R D E R

This is a joint petition filed by the Legal Guardian-cum-Adoption Placement Agency (Petitioner No.1) and the intending parents (Petitioner Nos.2 & 3) under Section 41(6) of the Juvenile Justice (Care and Protection of Children) Act, 2000 where petitioner No.1 seeks permission to give the minor female child Saina in adoption to petitioner Nos.2 and 3.

2. The minor female child **SAINA** born on **04.10.2012** came to the custody of petitioner No.1-Institution, a Philanthropic Organisation engaged in child welfare activities and giving shelter to the orphan, abandoned and surrendered children as a State recognised Adoption Placement Agency, on 15.04.2014 on transfer from the Missionaries of Charity, Rourkela. The child was received in the petitioner No.1-Institution as per orders of the District Child Welfare Committee (for short, "CWC"), Khurda. After observing due formalities, the said child was brought up in the petitioner No.1-Institution.

3. Petitioner Nos.2 and 3, who are husband and wife, have no biological children. So, they applied to petitioner No.1-Institution to take the child in adoption and on expression of their willingness, the proposed adoption has been favoured with an affirmative Child Study Report vide Ext.1.

4. On being directed, one Vinitha C.M., Social Worker, Kerala State Council for Child Welfare, Thycaud, Thiruvananthapuram, has conducted a Home Study required for the purpose of adopting a female child. On verifying the Home Study Report vide Ext.2, petitioner No.1 offered to give the minor female child Saina in adoption to petitioner Nos.2 and 3. On going through the Child Study Report, petitioner Nos.2

and 3 accepted the offer and agreed to take the child in adoption. Hence, the petition has been filed praying to allow petitioner No.1-Institution to give the female child Saina in adoption to petitioner Nos.2 & 3.

5. In course of hearing, one Sister Marita M.C., Sister-in-charge of the petitioner No.1-Institution, has examined herself reiterating the averments made in the petition. According to her, pursuant to a foster care affidavit dated 27.05.2014, the minor female child Saina has been handed over to petitioner Nos.2 & 3 temporarily. Petitioner No.2 has examined himself expressing his consent and desire to adopt the minor female child Saina, as they have no biological children. According to P.W.2, his wife (petitioner No.3) has also given her consent to adopt the female child to perpetuate their line of succession.

6. It has been submitted that for the welfare and improvement of the child, the adoption is essential and the intending parents have social and financial status for the purpose.

7. Now, it is to be seen whether it would be beneficial to institutionalize the child for her well being and better future prospectus. Petitioner No.2 being examined as P.W.2 has expressed his keen desire to adopt the child, as he is issueless.

Petitioner No.3 has also given her consent for such adoption. According to P.W.2, girl child Saina has been residing with them since 27.05.2014 and they have renamed her as Saina Fathima. It is revealed from the Home Study Report (Ext.2) that petitioner Nos.2 & 3 are financially, socially and emotionally stable to support the child physically, emotionally, psychologically and socially. Petitioner Nos.2 & 3 are financially sound, as evident from Ext.7 i.e. income certificate of petitioner Nos.2. Ext.8 shows that the Odisha State Council for Child Welfare, Bhubaneswar, affiliated to the Indian Council for Child Welfare, examined the matter and after thorough scrutiny and necessary enquiry, recommended in favour of the proposed adoption in the best interest of the child.

8. On perusal of the documents filed in this case vide Exts.1 to 8, it is found that both petitioner Nos.2 and 3 suffer no disqualification from parenting the child in any way, their health and financial status being good. The adoptive parents have the capacity and right to adopt the minor female child. The petitioner No.1-Institution giving in adoption as the *de facto* guardian has the capacity to do so. The female child Saina is also capable of being adopted under the provisions of the Act. As recommended by the CWC, Khordha under Ext.3 and the Odisha State Council for Child Welfare, Bhubaneswar under

Ext.8, the adoption should be in the welfare and interest of the child. It is further revealed from the relevant documents, coupled with the evidence of P.Ws.1 & 2, relating to the social and financial status of the intending parents, their consent and desire to adopt the child and the Home Study Report etc. that petitioner Nos.2 & 3 will provide emotional security and best upbringing to the child. All these establish that the interest of the child's welfare and security would be best served if she is given in adoption to petitioner Nos.2 and 3.

9. In view of above discussion, the application is allowed. The petitioner No.1-Institution is permitted to give the minor female child **SAINA** (renamed as **SAINA FATHIMA**) to petitioner Nos.2 and 3 in adoption subject to execution of a registered deed of adoption by petitioner Nos.2 and 3 in favour of the aforesaid minor female child within three months from the date of this order, conferring all the legal rights of a natural born child on the said child and submit the copy of the deed of adoption to the petitioner No.1-Institution and to this Court. Petitioner Nos.2 and 3 are further directed to furnish half-yearly report on the physical and intellectual development regarding the affairs of the adopted child to the petitioner No.1-Institution and the Odisha State Counsel for Child Welfare, Bhubaneswar. No cost.

**District Judge, Khurda
at Bhubaneswar.**

29.11.2014.

Dictated & corrected by me.

**District Judge, Khurda
at Bhubaneswar.**

29.11.2014.

List of witnesses examined:

P.W.1 -- Sister Marita M.C. &

P.W.2 -- Salim H.

List of documents admitted in evidence:

Ext.1 -- Child Study Report,

Ext.2 -- Home Study Report,

Ext.3 -- Release Order for adoption of child,

Ext.4 -- Medical Report of petitioner No.2,

Ext.5 -- Medical Report of petitioner No.3,

Ext.6 -- Foster Care Affidavit,

Ext.7 -- Income Certificate of petitioner No.2,

Ext.8 -- Scrutiny Report, &

Mark 'X' -- Joint photograph of petitioner Nos.2 and 3
with child.

**District Judge, Khurda
at Bhubaneswar.**

29.11.2014.

