

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

**C.M. Appl. No.175 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. A.X. Martin, aged about 45 years, S/o. A.L. Xavier.
3. Laly Martin, aged about 46 years, W/o. A.X. Martin.  
Both petitioner Nos.2 & 3 are At : Arackal,  
P.O. - N. Chellalanam, P.S. - Kannamaly, Kochi,  
Dist. - Ernakulam, Kerala.

... **Petitioners.**

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

Date of Argument : 29.01.2015.

Date of Order : 11.02.2015.

**No.06, Dated 11.02.2015.**

**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 male child Abhishek in adoption to petitioner Nos.2 and 3.

2. The minor male child **Abhishek** born on **13.08.2012**

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 26.04.2014. The child was received in the petitioner No.1-Institution on transfer as per orders of the Child Welfare Committees (for short, "CWC"), Sundargarh & 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 Nijo Sebastian, MSW, Social Worker of Missionaries of Charity, Nirmala Shishu Bhavan, S.R.M. Road, Ernakulam, Dist. - Kerala - 682 018, has conducted a Home Study required for the purpose of adopting a male child. On verifying the Home Study Report vide Ext.2, petitioner No.1 offered to give the minor male child Abhishek 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 male child, namely, Abhishek in adoption to petitioner Nos.2 & 3.

5. In course of hearing, one Sister Marita M.C., Sister-in-charge (Adoption) 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 25.07.2014 the minor male child Abhishek 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 male child Abhishek as they have no biological children. According to P.W.2, his wife (petitioner No.3) has also given her consent to adopt the male 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 his 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, male child Abhishek has been residing with them since 25.07.2014 and they have renamed him as Joseph Zavion. 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 P.W.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 male child. The petitioner No.1-Institution giving in adoption as the *de facto* guardian has the capacity to do so. The male child Abhishek is also capable of being adopted under the provisions of the Act. As recommended by the CWC, Sundargarh 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 he 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 male child **ABHISHEK** (renamed as **JOSEPH ZAVION**) 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 male 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.**

11.02.2015.

Dictated & corrected by me.

**District Judge, Khurda**

**at Bhubaneswar.**

11.02.2015.

**List of witnesses examined:**

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

P.W.2                --     A.X. Martin.

**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 & 3  
with minor child.

**District Judge, Khurda**

**at Bhubaneswar.**

11.02.2015.

