

ITEM NO.46

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.474/2024

DIVYA JYOTI SINGH

Petitioner(s)

VERSUS

THE STATE (NCT OF DELHI) & ORS.

Respondent(s)

(With IA No.113125/2024 - EXEMPTION FROM FILING O.T., IA No.113127/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.177924/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 21-10-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Ms. Vanshaja Shukla, AOR
Ms. Ankeeta Appanna, Adv.
Ms. Madhura Chitnes, Adv.
Mr. Siddhant Yadav, Adv.

For Respondent(s) Ms. Aishwarya Bhati, ASG
Ms. Chitragda Rastravara, Adv.
Mr. Dhruv Sharma, Adv.
Mr. S.S. Surana, Adv.
Mr. Manish, Adv.
Ms. Advitiya Awasthi, Adv.
Dr. N. Visakamurthy, AOR

Mr. Akshay Verma, AOR
Ms. Sushma Verma, Adv.
Mr. Saurav Arora, Adv.
Mr. Pramod Kumar, Adv.

For R-2

Mr. Sidharth Luthra, Sr. Adv.
Mr. Sahil Tagotra, AOR
Mr. Sougat Pati, Adv.
Mr. Kaustubh Chauhan, Adv.
Ms. Tanishka Khatana, Adv.
Mr. Sujay Jain, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 By an order dated 23 September 2016, the Family Court at Karkardooma Courts, Delhi granted a decree for divorce by mutual consent as between the petitioner and the second respondent in HMA No 1187 of 2016. The issue which forms the subject matter of these proceedings pertains to their minor son. Both the petitioner and the second respondent have since remarried. The petitioner has specifically stated that her spouse is agreeable to the child being taken in adoption.
- 2 Section 9(2) of the Hindu Adoption and Maintenance Act 1956 provides as follows:

“9. Persons capable of giving in adoption.— (1) No person except the father or mother or the guardian of a child shall have the capacity to give the child in adoption.

(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption;

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”

- 3 Mr Sidharth Luthra, senior counsel appearing on behalf of the second respondent states on the instructions of the second respondent, who is present in the Court, that the second respondent has no objection to the proposed deed of adoption, in terms of which the minor child shall be taken in adoption such that the petitioner who is the biological mother and her spouse, Mr Ankur Jain, will be parents of the child.
- 4 Accordingly, while recording the consent which has been tendered by the second respondent (who is physically present in the Court), we direct that Ankur Jain shall file an undertaking before this Court within a period of one week from today agreeing to the aforesaid arrangement and accepting that he would in pursuance of the above arrangement take the child in adoption. The petitioner is the biological mother of child.
- 5 Bearing in mind the amicable solution which has been found to the dispute in regard to the adoption of the child, it is not necessary for this Court to express any opinion or finding on the merits of the rival allegations between the parties unrelated to the issue which is resolved in the present case.
- 6 Once the deed of adoption is formalized in pursuance of the above order, all concerned authorities shall act on the basis of the present order by giving effect to the deed of adoption.
- 7 This order shall be conditional on the undertaking being filed before this Court by Mr Ankur Jain within the period stipulated above.
- 8 The Petition is accordingly disposed of.
- 9 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar