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CRAIG ALLEN COATES

v.

STATE & ANR.

(Civil Appeal No. 7475 of 2010)

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SEPTEMBER 8, 2010

[MARKANDEY KATJU AND T.S. THAKUR, JJ.]

Adoption:

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Inter-country adoptions – Indian male child with developmental delays and difficulty in learning – Prayer for adoption of, by a U.S. based woman who has professional experience in home based nursing – Medical Board of experts of AIIMS constituted to examine the child and the applicant – Report of the Medical Board that the applicant had adequate financial and emotional resources to provide for the child and that there is reciprocity between them and that the applicant would be a proper person to whom the child can be given in adoption – Prayer allowed – Child and Family Welfare.

E

Inter-country adoptions – Procedure to be followed – Directions given.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7475 of 2010.

From the Judgment & Order dated 31.08.2009 of the High Court of Delhi at New Delhi in F.A.O. No. 32 of 2009.

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Krishna Mani, Mohindru Singh, Rishi Kesh, Amit Kumar for the Appellant.

Anil Srivastav for the Respondents.

The following order of the Court was delivered

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ORDER

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Leave granted.

Heard Mr. Krishna Mani, Senior advocate and Mr. Mohindru Singh, advocate for the petitioner and Mr. Gopal Subramaniam, learned Solicitor General who has appeared as amicus curiae in this case, Ms. Coates who proposes to adopt the child Anil, has also appeared before us.

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On the previous date, we had requested the learned Solicitor General of India to get the matter examined by an expert committee as to whether the adoption of the child Anil by Ms. Coates would be in the interest of the child. Today, a report has been submitted by the learned Solicitor General made by a committee of Medical experts constituted at the instance of learned Solicitor General and comprising Prof. (Dr.) Rajat Ray, Dr. Pearl Drego, Dr. Amit Sen and Dr. Roma Kumar. The report reads as follow:-

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"A medical board consisting of Prof. (Dr.) Rajat Ray, Dr. Pearl Drego, Dr. Amit Sen and Dr. Roma Kumar constituted on the directions of your goodself met in the Room No. 13, VIP Room, Private Ward Building, AIIMS on 6th September, 2010 at 11.00 AM to examine the minor child Anil and Ms. Cynthia Ann Coates for the purpose of evaluating the petition for adoption vide reference letter No. G-702/SGL/2010 dated 31st August, 2010.

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The board looked into the medical records of medical and mental state of the child Anil as presented in the reports of Medical officers of Medical Home for Children. Moolchand Hospital, VIMHNS as well as the psycho metric evaluation of the child from Dr. Roma Kumar on the 3rd September.

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From all records it was apparent the child has developmental delays and difficulties with respect to learning and expressing and would require special care

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A for learning needs. In the opinion of the board such a child will benefit from family based care and nurturance rather than institutional care.

B The board went through the adoption home studies made by Lutheran Social Services Wisconsin, USA which gave a detailed analysis of the adoptive parents and the family.

C The board further examined Ms. Coates, her intentions, her professional experience and her proposed education of the child. She has had extended experience in home based nursing and in a respite home where she has given personal care to patients with neuro-muscular disorders, cognitive impairments and other handicaps. Her experience in home health and her sensitivity towards multicultural issues was evident in her interactions. She presented a clear vision of the family, school and community resources she needs to mobilize in order to make the adoption successful. She is committed to providing physical therapy, occupational therapy, speech therapy and special education to her adopted child.

E From the records available to the board it seems that she has adequate financial and emotional resources to provide for the adopted child. The board also viewed the recent recorded video made with the child's current setup where the child's interaction within the group was observed. The reciprocity in the relationship between Ms. Coates and the child became apparent during our interview.

G Thus the board is of the opinion that the petitioners should be allowed to adopt the minor male child Anil.

(Prof. Rajat Ray)

Head, Deptt of Psychiatry, AIIMS.

(Dr. Pear Drego)

H Psychotherapist and family Counselor (Dr. Amit Sen)

(Dr. Amit Sen)
 Child Psychiatrist
 (Dr. Roma Kumar)
 Clinical Psychologist"

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We are satisfied from the Report of the Medical Board, AIIMS that Ms. Coates would be a proper person, to whom the child Anil can be given in adoption.

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In the result, we allow this appeal, set aside the impugned judgment passed by the High Court as also that passed by the District Judge refusing to grant the prayer made by Ms. Coates for adopting minor child Anil and direct that the formalities regarding adoption as per the procedure prescribed shall be completed before the District Judge III (West), Delhi, as expeditiously as possible.

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We further direct that for inter-country adoptions the procedure followed heretofore could include a reference to an expert committee on the lines constituted in the present case to ensure that inter country adoption are allowed only after full and proper satisfaction is recorded by all the agencies including a committee of experts wherever reference to such a committee is considered necessary. We are told that Central Adoption Resources Agency (CARA) has the power to make references but no expert committee as such has been constituted or identified for that purpose. In our opinion, it would be appropriate if Central Adoption Resources Agency requests the Director All India Institute of Medical Sciences to constitute a committee of experts to be headed by Professor and Head of the Department of psychiatry, AIIMS.

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CARA may have been similar expert committees constituted in other States also to facilitate references to them in regard to children who may be living at distant places from Delhi.

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We disposed of this appeal on the above terms. No costs.

R.P

Appeal disposed of.

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