

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5718/2015 & CM APPLs. 28508/2015, 19662/2016

PKH

..... Petitioner

Through Mr. Karan Singh Thukral with
Mr. Rohit Yadav, Advocates

versus

CENTRAL ADOPTION RESOURCE AUTHORITY
THROUGH THE SECRETARY

..... Respondent

Through Mr. Amit Sibal, Senior Advocate and
Amicus Curiae with Mr. Rohan Alva,
Mr. Tahir Ashraf Siddiqui, Mr. Namit
Suri and Mr. Shariq Reyaz,
Advocates.

Mr. Akshay Makhija and Mr. Vivek
Goyal, CGSC with Ms. Aastha Jain,
Mr. Sumit Mishra and Mr. Prabhakar
Srivastav, Advocates for CARA. Mr.
Binod Sahu, Dy. Director, CARA.

Reserved on : 02nd June, 2016

%

Date of Decision : 18th July, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J:

1. The popular belief is that *adopting one child will not change the world; but for that child - the world will change*. However, the pace at which our statutory authorities process an application for adoption, shows as

if they believe only in the first part of the statement, namely, that adopting a child will not change the world.

2. This Court takes judicial notice of the fact that domestic adoptions have dropped by a half, hitting a five-year low with only 3011 children being adopted by the Indian parents in 2015-2016. During the same period, only 666 children were adopted by foreign parents. For a country having a population of approximately one billion three hundred twenty-seven million, the aforesaid statistics reveal an abysmal rate of adoption.

3. It is pertinent to mention that present writ petition has been filed seeking a direction to the respondent-CARA to grant a 'No Objection Certificate' (NOC) to the petitioner for taking her adopted child namely, M.H. (hereinafter referred to as 'the child') to Canada.

4. While learned counsel for the petitioner stated that the issues raised in the present petition were no longer res integra as they stood fully covered by the judgments of the Apex Court and this Court, learned counsel for the respondent-CARA submitted that in ***Dr. Abha Agrawal v. Central Adoption Resource Agency, 2013 SCC Online Del 325***, a learned single Judge of this Court while adjudicating two writ petitions on inter-country adoptions had despite his own judgment in ***Swaranjit Kaur vs. Union of India, W.P. (C) 29/2012*** decided on ***11th September, 2012*** held that there was some ambiguity on whether inter-country direct adoptions would fall within the purview of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'Act, 2000'). Learned counsel for the respondent-CARA pointed out that the learned single Judge had framed the following questions of law and referred the matter to the Division Bench:-

"(i). Whether the term 'surrendered child' will include those children who are directly taken in adoption from their biological parents without the intercession of any specialized agency or child welfare committee?

(ii) Whether, in case of direct adoption, the 2011 Guidelines and the provisions of Section 41(3) and (4) of the JJ Act are applicable?

(iii). If the answer to issue no.(i) and (ii) is in the affirmative, to what extent the 2011 Guidelines would apply to direct adoptions?

(iv) Can the court direct State to discharge its duty in its capacity as parens patriae to carry out an investigation so as to safeguard the interest WP(C) 2701/2012 & 3279/2012 and/or rights of the child conferred on him under Article 21 of the Constitution of India?

(v). Could respondent nos.2 and 3 insist on issuance of a NOC by CARA, before processing the application of the petitioner(s) for issuing a passport to the adopted child?"

5. The Division Bench, by its order dated 18th May, 2015, dismissed one petition for default in appearance and noted that in the other writ petition as respondent-CARA had issued an NOC, the petitioner did not press for any relief. Consequently, the questions of law were left open by the Division Bench.

6. Learned counsel for respondent-CARA submitted that as the Division Bench had not answered the reference, the petitioner's argument that the issues raised in the present writ petition were no longer res integra was ill-founded and the respondent-CARA was justified in not granting an NOC to the petitioner. Since the respondent-CARA has been taking an identical

stand in a number of connected writ petitions, this Court directed that the present matter be treated as the lead matter and appointed Mr. Amit Sibal, Senior Advocate, as the Amicus Curiae.

7. In a bid to preserve the privacy of the parties, this Court directs that in the order that is to be uploaded, initials of the parties should only be mentioned.

RELEVANT FACTS

8. The relevant facts of the present case are that the petitioner and her husband are both Canadian citizens who have been residing in Canada for the last twenty years. The petitioner is stated to be a reputed solicitor by profession who is employed in Alberta, Canada, where she owns both movable and immovable properties.

9. In the writ petition, it is averred that the petitioner has a male child and was desirous of balancing her family by adopting a girl child. It is stated that the petitioner decided to adopt a girl child from India as it is her cultural and ethnic base.

10. It is also averred that thereafter the relatives of the petitioner in her ancestral village in Punjab got in touch with another family relative, P.K., who was living in a nearby village. Both the natural and adoptive families are stated to have known each other for years and belong to the same ancestral village.

11. The adopted child was born on 24th September, 1999. The biological/natural mother of the child is a widow whose husband had unfortunately expired on 05th December, 1999. The natural mother has two other children - one daughter and one son - apart from the adopted child.

12. It is further averred that on 18th April, 2007, the natural mother gave her daughter, M, in adoption to the petitioner after satisfying herself with regard to the character, financial position and family background of the petitioner. It is contended that all the essential requirement of a valid adoption were adhered to and the ceremony of giving and taking the child in adoption was performed in the presence of the relatives and friends of both the families.

13. Pursuant thereto, a Deed of Adoption dated 26th April, 2007 was executed and registered in the office of the Sub-Registrar, Patiala, Punjab. The petitioner even got the name of the adopted child changed to "M.H. ".

14. After registration of the Adoption Deed and completion of all the formalities with regard to adoption, the petitioner with intent to take the adopted child to her resident country, Canada, applied for the immigration of the child to the High Commission of Canada.

15. However, the High Commission of Canada directed the petitioner to obtain an NOC from respondent-CARA's office for processing of the immigration application as according to it an NOC from respondent-CARA is imperative under the Hague Convention to which India is a signatory.

16. It is the case of the petitioner that on 16th May, 2011, she submitted her application with all the relevant documents to CARA's office at New Delhi, but the officer refused to acknowledge her application. The petitioner therefore, wrote various e-mails to CARA, but her requests were not acceded to.

17. It is pertinent to mention that the adoption of the child by the petitioner was approved as per the Hague Convention by the CARA of

Canada and a favourable Home Study Report was issued on 29th November, 2010. In fact, the petitioner was approved for adoption on 30th November, 2010.

18. The complete set of documents from CARA, Canada with the approval of the adoption as per the Hague Convention were sent to the office of the respondent-CARA in May 2011. However, it is averred that when the petitioner later approached the respondent-CARA, to check the status of her application, no response was provided by respondent-CARA.

19. In the meantime, the petitioner also obtained a declaratory decree dated 03rd February, 2012 from the Court of Additional Civil Judge (Senior Division), Zira, Punjab, in her favour declaring the Adoption Deed executed by the petitioner and the natural mother of the child as valid and legal. The relevant portion of the Additional Civil Judge's judgment in Case No. 120-1 dated 31.5.2011/6.6.2011 dated 03rd January, 2012, which has attained finality, is reproduced hereinbelow:-

"11. In view of the evidence led on record by the plaintiffs, it is held that adoption of plaintiff no.3 by plaintiffs no.1 and 2 after adoption ceremony has been duly proved on record. The adoption deed Ex.P2 bears the signatures of plaintiffs no.1 and 2 and defendant. Defendants were natural guardian of plaintiff no.3 at the time of execution and registration of adoption deed. The father of plaintiff no.3 had already died and his death certificate is on record as Ex.P5. The adoption of plaintiff no.3 is also not disputed by the defendants and only grudge of defendants is that plaintiff no.3 is not being looked after properly by the plaintiffs no.1 and 2 and due to said reason, they are asserting their right to take back plaintiff No.3 from plaintiffs no.1 and 2. It is held that since the adoption of plaintiff no.3 by plaintiffs no.1 and 2 has been proved on record, defendants cannot be allowed to repudiate the same.

Accordingly, issues no.1 and 2 are decided in favour of the plaintiffs.

Relief.

12. In view of my findings given on above said issues, suit of the plaintiffs for declaration and permanent injunction as prayed for in the head note of the plaint is decreed without any order to costs. Decree sheet be prepared accordingly. File be consigned to the record room.

| | |
|---|---|
| <i>Pronounced in open court On 3.1.2012</i> | <i>Sd/- Raman Kumar Addl. Civil Judge (Sr. Division) Zira</i> |
|---|---|

20. It is the petitioner's case that as a matter of last resort on 19th May, 2015, she filed the present writ petition before this Court praying for issue of a writ, order or direction to respondent-CARA to grant an immediate 'Clearance/NOC' in respect of her pending application.

21. Only on 02nd May, 2016, respondent-CARA filed a counter affidavit. In its response, respondent-CARA stated that it was designated as the Central Authority for the purposes of the Hague Convention on 16th July, 2003 and that pursuant to the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'Act, 2015'), they are a statutory authority.

22. Respondent-CARA stated that under the Act, 2015, all adoptions have to be undertaken through it and that adoption not undertaken through it, is punishable under Section 80, if the child is taken out of the country without a valid court order.

23. Respondent-CARA further stated that Schedule 8 of the Guidelines Governing Adoption of Children, 2015 (for short 'Guidelines, 2015') stipulates the documents needed for adoption and as only some of the documents were furnished by the petitioner, her request was not considered by respondent-CARA's NOC Committee.

ARGUMENTS ON BEHALF OF THE PETITIONER

24. Mr. Karan Singh Thukral, learned counsel for the petitioner submitted that it is with regard to only the '*child in need of care and protection*' and/or the '*child found to be in conflict with law*', that the rehabilitation process under the Act, 2000 or Act, 2015 has to be followed.

25. According to him, the rehabilitation of the child under the aforesaid Acts via adoption does not include an adoption of a child directly from the natural parents under the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as 'HAMA, 1956'). He pointed out that the giving and taking of the child comes within the ambit of the personal laws of the Hindus and is commonly known as the *Datta Homam* ceremony which is prevalent since time immemorial. He stated that even the Statement of Objects of the Act, 2015 as amended recently explicitly lays down the purpose of the provisions and rules framed under the Act, 2015 which reads as under:-

"An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes

provided, and institutions and bodies established, hereinafter and for matters connected therewith or incidental thereto."

26. Mr. Thukral pointed out that the Act, 2015 defines the three categories of child as below:-

"Section 2(1): "abandoned child" means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

xxx xxx xxx

Section 2(42): "orphan" means a child—

(i) who is without biological or adoptive parents or legal guardian; or

(ii) whose legal guardian is not willing to take, or capable of taking care of the child;

xxx xxx xxx

Section 2(60): "surrendered child" means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;

27. Mr. Thukral also referred to the other provisions of the Act, 2015, which are reproduced hereinbelow:-

"Section 1(4): Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including--

(i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law;

(ii) procedures and decisions or orders relating to

rehabilitation, adoption, re-integration and restoration of children in need of care and protection.

xxx

xxx

xxx

Section 2(13): "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.

Section 2(14): "Child in need of care and protection" means a child-

(i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or

(ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or

(iii) who resides with a person (whether a guardian of the child or not) and such person—

(a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or

(b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or

(c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

(iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to

take care, if found so by the Board or the Committee; or

(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

(vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or

(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

(ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;"

xxx

xxx

xxx

Section 56(3) Nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956.

Section 59: Procedure for Inter-country adoption of an orphan or abandoned or surrendered child--(1) If an orphan or abandoned or surrendered child could not be placed with an Indian or non-resident Indian prospective adoptive parent despite the joint effort of the Specialised Adoption Agency and State Agency within sixty days from the date the child has been declared legally free the adoption, such child shall be free for inter-country adoption:

Provided that children with physical and mental disability, siblings and children above five years of age may be given preference over other children for such inter-country adoption, in accordance with the adoption regulations as may be framed by the Authority.

xxx

xxx

xxx

28. Consequently, according to Mr. Thukral, the Act, 2015 solely deals with orphan or abandoned or surrendered child. He emphasised that a child directly taken in adoption from the natural parents does not fall within the definitions of "*child in conflict with*" or "*child in need of care and protection*". In support of his submission, he relied upon the judgments of the Supreme Court in ***Lakshmi Kant Pandey Vs. Union of India, (1984) 2 SCC 244*** and ***Anokha (Smt.) Vs. State of Rajasthan and Others, (2004) 1 SCC 382***.

29. Mr. Thukral further submitted that in the absence of the implementation of the Uniform Code for adoption, the Hague Convention cannot be applied as it conflicts with the personal/domestic laws like the HAMA, 1956. He contended that the Hague Convention wanted the signatory countries to implement a uniform adoption law in their respective countries, but as India failed to implement the same, the Convention is not

applicable to adoption of a child directly from the natural parents.

ARGUMENTS ON BEHALF OF THE RESPONDENT-CARA

30. Per contra, Mr. Akshay Makhija, learned counsel for respondent-CARA submitted that in the case of adoption, especially inter-country adoption, it is of prime importance to ascertain that the child is legally free for adoption and that parents who are adopting the child are suitable and eligible to adopt. He stated that it is extremely important that the foreign country to which the child is being taken accepts such adoption as valid under their local laws, so that the adopted child is conferred with all rights that are due to the child qua the adoptive parents.

31. Mr. Makhija pointed out that the Hague Convention was signed by India on 09th January, 2003, ratified on 06th June, 2003 and came into effect in India from 01st October, 2003. According to him, the import of the Hague Convention is that the transfer of a child to a receiving State can only be carried out if the requirement of Article 17 of the Hague Convention is satisfied. Articles 5 and 17 of the Hague Convention are reproduced hereinbelow:-

A. ARTICLE 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State -

- a) have determined that the prospective adoptive parents are eligible and suited to adopt;*
- b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and*
- c) have determined that the child is or will be authorised to enter and reside permanently in that State.*

B. ARTICLE 17

"Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if -

- a) the Central Authority of that State has ensured that the prospective adoptive parents agree;*
- b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;*
- c) the Central Authorities of both States have agreed that the adoption may proceed; and*
- d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorised to enter and reside permanently in the receiving State."*

32. Mr. Makhija submitted that the Central Authority of India, as mandated by the Hague Convention, is respondent-CARA and it must certify that the child is adoptable. He emphasized that the receiving State under the Hague Convention would not accept the adoption as valid if the same is not certified by respondent-CARA. He stated that even in the present case the request for NOC from the respondent-CARA came from the Canadian High Commission.

33. Mr. Makhija submitted that the Act, 2015 had come into force on 15th January, 2016 and its Section 56(4) mandates that all inter-country adoptions shall be done only as per its provisions and the Adoption Regulations framed by CARA. According to him, the definition of 'inter-country adoption' in Section 2(34) is all inclusive and does not exclude the cases of direct adoption of Indian children involving NRIs/PIOs/Foreigners. He

further submitted that inter-country adoption is a category in itself and all inter-country adoptions have to be certified by CARA in accordance with Section 68 of the Act, 2015, without which the receiving State would not accept the same as a valid adoption in terms of the Hague Convention. The provisions of Act, 2015 referred to by Mr. Makhija are reproduced hereinbelow:-

"2(34) "inter-country adoption" means adoption of a child from India by nonresident Indian or by a person of Indian origin or by a foreigner;

xxx

xxx

xxx

56(4) All inter-country adoptions shall be done only as per the provisions of this Act and the adoption regulations framed by the Authority.

xxx

xxx

xxx

68. The Central Adoption Resource Agency existing before the commencement of this Act, shall be deemed to have been constituted as the Central Adoption Resource Authority under this Act to perform the following functions, namely:—

(a) to promote in-country adoptions and to facilitate inter-State adoptions in co-ordination with State Agency;

(b) to regulate inter-country adoptions;

(c) to frame regulations on adoption and related matters from time to time as may be necessary;

(d) to carry out the functions of the Central Authority under the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption;

(e) any other function as may be prescribed."

34. Without prejudice to the applicability of the Act, 2015, he submitted that even if the petitioner was to contend that the adoption is governed by the Act, 2000, the petitioner would still be obliged to obtain an NOC from CARA in accordance with Rule 26 of the Guidelines Governing Adoption of Children, 2011 (for short 'Guidelines, 2011'), as inter-country adoption is a category in itself and the NOC of CARA is mandatory. The said Rule 26 is reproduced hereinbelow:-

"26. Procedure for Inter-country Adoption as per the Hague Convention on Inter-country Adoption, - (1) The authorities and agencies involved in Inter-country adoption process shall be, -
(a) Court of Competent Jurisdiction who can pass Order for Adoption;

(b) Central Adoption Resource Authority (CARA);

(c) Central Authority in the receiving Country (CA);

(d) Indian Diplomatic Missions Abroad;

(e) Foreign Diplomatic Missions in India;

(f) Authorised Foreign Adoption Agency (AFAA);

(g) State Adoption Resource Agency (SARA) or Adoption Coordinating Agency (ACA);

(h) Recognised Indian Placement Agency (RIPA); and

(i) Adoption Recommendation Committee (ARC).

(2) The authorities and agencies referred to in sub-paragraph (1) shall be guided by the procedure laid down for inter-country adoption in these Guidelines which draws strength from the Hague Convention on Inter-country Adoption-1993 provided in Schedule IX."

35. Mr. Makhija emphasised that India being a signatory and having ratified the Hague Convention, its provisions would apply with respect to all inter-country adoptions including the direct adoptions from natural parents.

36. Mr. Makhija pointed out that the Madras High Court in the case of **Mr. Tim Cecil and Mrs. Steffi Cecil in O.P. No.247/2011 decided on 13th**

June, 2011, has opined that the right of a child as a human being is an independent right which flows from his right to life as contained in Article 21 of the Constitution of India. He submitted that the Madras High Court after noting the judgment of *Anokha* (supra) and the provisions of the Hague Convention held that the decision taken by the natural parents, however, bona fide, need not always be an informed decision and the minimum safeguard that would be adopted is to call for a Home Study Report so that the decision taken by the natural parents to handover their child to the petitioners herein, could be accepted to be a decision taken in the best interest of the child.

37. Mr. Makhija also pointed out that in the case of *Lakshmi Kant Pandey* (supra), the Supreme Court recognized that in inter-country adoption, it is necessary to bear in mind that the primary object of giving the child in adoption is the welfare of the child and great care has to be exercised in permitting the child to be given in adoption to foreign parents, lest the child be neglected or abandoned by the adoptive parents in the foreign country or the adoptive parents may not be able to provide the child a life of moral or material security or the child may be subjected to moral or sexual abuse or forced labour etc.

38. Mr. Makhija lastly submitted that the Supreme Court in *Anokha* (supra) has held that *Lakshmi Kant Pandey* (supra) did not deal with a case of a child living with his natural parents. It was emphasized that the Courts, while dealing with an application under Section 7 of the Guardians and Wards Act, 1890 (hereinafter referred to as 'Act, 1890') have to be satisfied that the child is being given in adoption voluntarily after being aware of the implications of adoption, un-induced by any extraneous reasons such as

receipt of money etc., and the adoptive parents have produced evidence in support of their suitability and finally that the arrangement would be in the best interest of the child.

SUBMISSIONS ON BEHALF OF THE LEARNED AMICUS CURIAE

39. Mr. Amit Sibal, learned Amicus Curiae submitted that in the present case as the Adoption Deed had been executed under HAMA, 1956 before the Act, 2015 came into force on 15th January, 2016, the Act, 2015 will not apply.

40. According to Mr. Sibal, the legal regime prevailing prior to the coming into force of the Act, 2015 namely the Act, 2000 and rules and guidelines promulgated thereunder neither prohibited inter-country direct adoption nor did it cover the same. He submitted that the Act, 2000 covered adoption of orphan or abandoned or surrendered child only--none of which included inter-country direct adoption.

41. He pointed out that Section 16 of HAMA, 1956 creates a presumption of validity in favour of an adoption deed. Section 16 states, "*Whenever any document registered under any law for the time being in force is produced before any Court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the Court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved*".

42. Mr. Sibal emphasised that since the adoption in the present case had taken place under HAMA, 1956 and not under the Act, 2000, there was no requirement of NOC from respondent-CARA.

43. Learned Amicus Curiae further submitted that the issue of requirement of an NOC by respondent-CARA in cases of direct adoption had been emphatically answered in negative by the High Court of Madras in the case of **Mr. Frank M. Costanzo and Mrs. Deborah L. Connelly vs. The Regional Passport Officer, MANU/TN/2703/2010**. In the said case, the Madras High Court held that requirement of NOC by CARA for the issuance of Passport under the Passport Manual in case of inter-country direct adoption was without authority of law and that there existed no legal basis for imposing such a condition. The High Court further held that the insistence of NOC by CARA was contrary to the decisions of the Apex Court in **Lakshmi Kant Pandey** (supra) and **Anokha** (supra). The High Court also held that when the CARA itself could not impose any condition in respect of direct adoption from natural parents, the Passport Authority certainly could not impose any condition that would restrict the issuance of Passport to the adopted child. The Court directed the Passport Authorities to issue the Passport to the adopted child without any delay.

44. He pointed out that as per the notification of the Ministry of External Affairs dated 19th March, 2015, the requirement of NOC by CARA for the issuance of Passport to inter-country adopted child, only applies to an orphan or abandoned child and cases of inter-country direct adoption do not form part of the said notification.

45. Mr. Sibal submitted that adoptions in India were earlier governed by the Act, 2000, but are now governed by the Act, 2015 which came into force on 15th January, 2016. Section 111(1) repeals the Act, 2000.

46. Learned Amicus Curiae fairly stated that in view of Sections 56(2), 56(3) and 60 of the Act, 2015 two views are possible as to whether Act,

2015 applies to inter-country direct adoption or not. He submitted that though the Act, 2015 allows for inter-country adoption for an orphan or abandoned or surrendered child and inter-country relative adoption, yet it does not specifically provide for inter-country direct adoption which is not in the nature of adoption mentioned in Sections 59 and 60 of the Act, 2015. He also pointed out that the Standing Committee Report on the Juvenile Justice (Care and Protection of Children) Bill, 2014, which was eventually enacted after modification as the Act, 2015, suggests that the Standing Committee did not contemplate a prohibition on inter-country direct adoption.

COURT'S REASONING

47. Having heard the learned counsel for parties, this Court is of the view that it is essential to trace the development of the law relating to child rights and adoption nationally as well as globally.

GENEVA DECLARATION OF THE RIGHTS OF THE CHILD, 1924

48. The first major declaration on child rights was the '*Geneva Declaration of the Rights of the Child*' which was adopted on 26th September, 1924 by the League of Nations. This Declaration recognized that a child who cannot fend for himself/herself must be protected and rehabilitated inasmuch as it stated that "*the orphan and the waif must be sheltered and succored*". This initial Declaration indicated that it was the society's responsibility to ensure that the interest of a child who does not have a natural family, is safeguarded.

DECLARATION OF THE RIGHTS OF THE CHILD, 1959

49. On 20th November, 1959, the General Assembly of the United Nations, by Resolution 1386(XIV) adopted the '*Declaration of the Rights of the Child*'. By this Declaration, the best interest of the child was sought to be protected. Importantly, in Principle 9, it was declared that a child should be protected from "*neglect, cruelty and exploitation*".

DECLARATION ON SOCIAL AND LEGAL PRINCIPLES RELATING TO THE PROTECTION AND WELFARE OF CHILDREN, WITH SPECIAL REFERENCE TO FOSTER PLACEMENT AND ADOPTION NATIONALLY AND INTERNATIONALLY, 1986

50. On 03rd December, 1986, the General Assembly of the United Nations in its 95th Plenary Meeting adopted the '*Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally*'. While Articles 13 to 24 dealt with adoption, Articles 17 to 24 dealt specifically with inter-country adoption. Article 13 stated that the objective of adoption was to ensure that a child who did not have a natural family is taken care of in a family setting. Article 17 stipulated that when the option of placing a child either in foster care or adoption in the child's home country was unavailable, then inter-country adoption should be resorted to with the singular objective of ensuring that a child can grow up in a family. Article 18 stated that national governments should endeavour to enact laws for regulating inter-country adoptions. Article 20 stated that a competent authority must be created in States in order to oversee inter-country adoptions. Article 22 stated that inter-country adoptions should only be made once the child is legally free for adoption and that all the necessary

protocols have been satisfied in order to facilitate the adoption. Article 23 stated that the inter-country adoption should be considered as legally valid in the two countries which are involved.

CONVENTION ON THE RIGHTS OF THE CHILD, 1989

51. On 20th November, 1989, the General Assembly of the United Nations adopted the '*Convention on the Rights of the Child*'. This Convention comprehensively dealt with the rights and entitlements available to a child. Article 21 of the Convention referred to adoption. It stipulated that in matters of adoption, the best interest of the child is the most important factor. Article 21(a) stipulated that adoption of the child must be undertaken through competent authorities in order to preserve the sanctity of the adoption process. Article 21(b) dealt with inter-country adoption. It provided that inter-country adoption must be allowed when no one is willing to take care of the child and that in the child's home country, an adoptive family could not be found. Articles 21(c), 21(d) and 21(e) stipulated that sufficient safeguards must be in place in order to protect a child who is given in inter-country adoption. India acceded to this Convention on 11th December, 1992.

CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTER-COUNTRY ADOPTION, 1993 AT HAGUE

52. The most important international convention on inter-country adoption is the subsisting '*Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption*', which concluded on 29th May, 1993 at The Hague, Netherlands. Its Article 1 states that the purpose and aim of the Convention is to preserve the best interest of the child and to ensure recognition of inter-country adoption between contracting states.

Articles 4 and 5 provide for the circumstances in which an adoption can be said to be within the scope of the Convention. Article 6(1) provides that in a Contracting State, a Central Authority must be created to perform the duties imposed by the Convention. Articles 14 to 21 relate to the manner in which inter-country adoption can be undertaken and the role of the Central Authority in that regard. Article 23 provides that when the competent authority of a state certifies that the adoption has taken place as per the Convention, the certification should be recognized in the other Contracting States. India signed this Convention on 09th January, 2003 and ratified it on 06th June, 2003.

53. Interestingly, a reading of certain Articles in the Convention shows that the Convention recognizes the operation of different laws on adoption within a country. Article 6(2) provides, *inter-alia*, that where a State has more than one system of law which relate to adoptions, then the Contracting State can create several Central Authorities for the different systems of law. Article 28 provides that the Convention does not affect a law which stipulates that the adoption must occur in the home country of a child. Also, Article 37 provides that when a State has several systems of law which apply to different groups, the specific law is to be considered when a reference is made to the State's law.

54. It should be noted that according to the '*Conclusions and Recommendations*' of the Special Commission of the practical operation of the Hague Convention of 29 May 1993 on protection of Children and Co-operation in Respect of Inter-country Adoption, one of the recommendations made is that direct and independent adoptions are incompatible with the Convention (*see Para. 1(g) and Paras. 22, 23, 24*). However, it should be

noted that it is only a recommendation and not binding as the Convention is.

55. At this stage, it is also necessary to take into account domestic legislative and jurisprudential developments that took place with regard to inter-country direct adoptions.

IN 1984, SUPREME COURT DELIVERED A COMPREHENSIVE AND SEMINAL JUDGMENT IN THE CASE OF LAKSHMI KANT PANDEY (SUPRA)

56. In 1984, the Supreme Court in the case of **Lakshmi Kant Pandey** (supra) delivered a comprehensive and seminal judgment on the question of inter-country adoptions.

57. Acting on a letter petition filed by an individual complaining of questionable practices adopted by agencies which gave children in inter-country adoptions, the Supreme Court decided to comprehensively review the process by which children were given in inter-country adoptions. The decision begins by noting that there were two legislative attempts at passing an Adoption Bill which did not fructify. The first was ‘*The Adoption of Children Bill, 1972*’ which had been introduced in the Rajya Sabha but was not passed. The second effort was made in 1980, when the ‘*Adoption of Children Bill*’ was introduced in the Lok Sabha, but which remained pending.

58. Prior to the **Lakshmi Kant Pandey** (supra) judgment, in the absence of any law on adoption, foreign parents who desired to adopt an Indian child would make an application under the Guardians and Wards Act, 1890 to be appointed as the guardian of the child after which the foreign parents would have the right to take the child out of the country. To regulate this process, the High Courts of Bombay, Gujarat and Delhi had even put in place certain

procedural rules.

59. The Supreme Court noted that when the child is abandoned or when a parent wants to relinquish a child and give the child up for adoption, then an effort should be made to find prospective adoptive parents within India. If no one was willing to adopt such a child in India, then the child could be given to foreign parents since it would be wiser to give the abandoned, orphaned or surrendered child for inter-country adoption rather than condemning him/her to a life in an orphanage or an institution without any family support.

60. The Supreme Court also held that since the best interest of the child has to be protected scrupulously, safeguards must be put in place to ensure that inter-country adoptions are not resorted to by persons who would mistreat the child. Thus, the Supreme Court held that in order for foreign parents to adopt a child from India, the parents' application for adoption should be sponsored by a child welfare agency in the parent's home country which agency must prepare a Home Study Report of the parents. Further, a Child Study Report should also be prepared. The Supreme Court noted that a Central Adoption Resource Agency must be created to oversee the process of inter-country adoption and ensure the sanctity of the adoption process is observed. With regard to the surrender of a child, natural parents who want to surrender their child to an agency or institution must receive proper assistance and be made aware of the consequences of their decision.

61. Significantly, the Supreme Court judgment was emphatic on the point that the procedural and substantive safeguards which it laid down were inapplicable to cases where the foreign parents directly adopt the child from the natural parents. The Supreme Court in **Lakshmi Kant Pandey** (supra)

held as under:

"11. We may make it clear at the outset that we are not concerned here with cases of adoption of children living with their biological parents, for in such class of cases, the biological parents would be the best persons to decide whether to give their child in adoption to foreign parents. It is only in those cases where the children sought to be taken in adoption are destitute or abandoned and are living in social or child welfare centres that it is necessary to consider what normative and procedural safeguards should be forged for protecting their interest and promoting their welfare."

62. The justification provided for this exception was that when the child is abandoned or destitute or when the child is living in a welfare centre then there is no one to protect his/her interests. By contrast, in the case of direct adoptions, the natural parents still live with the child and they are best suited to judge whether it would be in the best interests of the child to be given up for inter-country adoption. Therefore, the decision is categorical in holding that inter-country direct adoptions are outside the ambit of the decision.

THE ANALYSIS OF THE ACT, 2000, RULES, 2007 AND GUIDELINES, 2015

63. The Act, 2000 was enacted pursuant to India's obligations under the Convention on the Rights of the Child. In 2006, this Act was amended. *Inter alia*, Section 2(aa) was introduced to define adoption as "*the process through which the adopted child is permanently separated from his biological parents and become the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.*" The provision relating to adoption, and sub-sections (2) to (4)

of Section 41 were also substituted in 2006. The amended Section 41(2) provides that adoption is a means to rehabilitate a child who is an orphan or abandoned or surrendered. Sections 41(3) to 41(5) provide the procedure that has to be adhered to for the adoption of such a child.

64. The Juvenile Justice (Care and Protection of Children) Rules, 2007, (for short 'Rules, 2007') prescribes the process for adopting a child in Rule 33.

65. Rule 33 (1) provides that the purpose of adoption is to ensure that a child is placed in a permanent substitute family when such a child is not fortunate to receive the care from his/her natural parents. Rule 33 (2) provides that the guidelines issued by the Central Adoption Resource Agency shall govern all adoptions. Rule 33 (3) pertains to the process to be followed for the adoption of an orphan or abandoned child.

66. Rule 33 (4) pertains to the adoption of “*surrendered children*”. A reading of this rule reveals that a child who is directly adopted from the natural parents cannot be considered as a “*surrendered child*”. Rule 33 (4)(a) provides that a “*surrendered child*” is the one who has been declared by the Committee i.e. the Child Welfare Committee ('CWC') as “*surrendered*” in order to also declare the child legally free for adoption. Further, such “*surrender*” is contemplated only in certain compelling conditions, such as a child born out of a non-consensual relationship [Rule 33(4)(a)(i)]. Rule 33 (4)(b) provides that the CWC must counsel the parents to see whether they would like to keep the child, and if they are unwilling to do so, the child may be kept in foster care (*Section 42, Rules 34, 35, 36*) or sponsorship (*Section 43, Rule 37*) may be arranged for him/her. Rule 33 (4)(c) read with Rule 33 (4)(e) provides that a deed of surrender has to be

executed by the parents before the CWC. Rule 33 (4)(f) provides that after the time period for reconsidering the surrender of the child elapses [Rule 33 (4)(d)], the surrendered child may be declared legally free for adoption.

67. Section 41 read with Rule 33 suggests that a “*surrendered child*” denotes a child who has been relinquished by the natural parents and that the parents seek to irreversibly terminate the parental-child relationship. Upon the termination of this relationship which has to be done under the supervision of the CWC, the child is “*surrendered*” to the care and custody of the CWC who is then responsible for the care of the child.

68. The abovementioned provisions make it amply clear that direct adoption cannot be considered as a process by which the child becomes a “*surrendered child*” because in the case of direct adoption, the natural parent gives the child in adoption directly to the adoptive parents without surrendering the child to the CWC and/or any third entity or agency. In direct adoptions, unlike the case of surrender, there is no termination of the parental-child relationship in favour of the CWC or any third agency which then decides whether or not to give the child in adoption.

69. Further, a reading of the Guidelines, 2015, issued by the Ministry of Women and Child Development on 17th July, 2015 under the Act, 2000 also makes it clear that a surrendered child is not a child given in direct adoption. These Guidelines were made pursuant to Section 41 (3) of Act, 2000 and replace the Guidelines, 2011. In para 2 of the Note to the Guidelines, it is stipulated that, “*These Guidelines shall govern the adoption procedure of orphan, abandoned and surrendered children in the country from the date of notification and shall replace the Guidelines Governing the Adoption of Children, 2011*”.

70. Certain Rules of the Guidelines, 2015 are also important. Rule 2(2) defines an abandoned child to mean an “*unaccompanied and deserted child who is declared abandoned by the Child Welfare Committee after due inquiry*”. Rule 2(23) defines an orphan to mean a child who does not have parents or legal guardian, or whose parents or legal guardians are unwilling to take care of the child or are incapable of taking care of the child. Rule 2(33) defines a surrendered child to mean a “*child, who in the opinion of the Child Welfare Committee, is relinquished on account of physical, emotional and social factors beyond the control of the parent or legal guardian*”. A reading of Rule 2(33) reveals that the definition of a surrendered child cannot apply to cases of direct adoptions because in inter-country direct adoptions there is no element of relinquishment to the CWC, or a third entity or an agency.

71. A holistic reading of the Act, 2000, the Rules, 2007 and the Guidelines, shows that a surrendered child means a child who is given to the CWC after which it is only the CWC who has a say with regard to the welfare of the child. After the surrender, the parents no longer have any role to play and it is the CWC which decides the best course of action for the child. Consequently, a reading of Act, 2000 read with the Rules, 2007 shows that neither the Act, 2000 nor the Rules made there-under cover inter-country direct adoptions.

THE SUPREME COURT'S INTERPRETATION OF THE ACT, 2000

72. In *Anokha* (supra) the Supreme Court specifically examined the applicability of Guidelines on Adoption to inter-country direct adoptions and the role of respondent-CARA. In that case, an Italian couple wished to adopt

an Indian child and to that end filed an application under the Guardian and Wards Act, 1890 in the court of the District Judge at Alwar. The District Judge rejected the application, *inter alia* on the ground that the Central Government had issued Guidelines for the '*Adoption of Indian Children*' which required an authorised agency in the adoptive parents' home country to sponsor an adoption application and issue a no-objection certificate. The District Judge held that in its absence, the application of the Italian couple had to be rejected. This decision was affirmed in appeal and the High Court ruled that in addition to the adoption application being sponsored by an agency in the foreign country, CARA must also issue a no-objection certificate. It is in this context that the matter was carried forward to the Supreme Court in appeal.

73. The Supreme Court in **Anokha** (supra) following the decision of **Lakshmi Kant Pandey** (supra) held that inter-country direct adoptions are not amenable to the rigours of the procedural safeguards since the natural parents are best positioned to judge what is in the best interests of the child. Crucially, the Supreme Court reiterated the distinction which **Lakshmi Kant Pandey** (supra) drew between a surrendered child and the giving of a child in direct adoption by noting that the said judgment would apply to a child who is surrendered or relinquished to an institution and "*not to cases where the child is living with his/her parent/parents and is agreed to be given in adoption to a particular couple who happen to be foreigners*".

74. The Supreme Court held that nothing in the Indian jurisprudence on the subject suggests that the adoption guidelines such as the one before the Court could apply to inter-country direct adoptions. The Supreme Court further held that the need for CARA to furnish an NOC, the application for

adoption needing to be sponsored by a recognised agency, and the adoption needing to be undertaken by a recognised Voluntary Coordinating Agency, only arises when “... *there is the impersonalized attention of a placement authority...*”.

75. The Supreme Court reiterated the conclusion that the extant adoption guidelines are inapplicable to cases of inter-country direct adoptions. However, it stated that when the adoptive parents make an application under the Guardian and Wards Act to be appointed as the guardians of the child, the Court must be satisfied that the adoption is voluntary, that the consent of the natural parents to give up the child for adoption has not been obtained through questionable means, and that the adoptive parents must present evidence as to their overall suitability to adopt a child.

76. In conclusion, the Supreme Court held in **Anokha** case (supra) that since there was sufficient material on record which attested to the suitability of the adoptive parents to take care of the child, the Italian couple were appointed as the child’s guardian.

77. From a reading of **Anokha** (supra), it is clear that the Supreme Court declared that the extant Guidelines on adoption as they existed at that time would be inapplicable to cases of inter-country direct adoptions and that CARA would have no jurisdiction over such adoptions. However, it held that it otherwise be established that the inter-country direct adoption has taken place in a *bona fide* manner and that the adoptive parents are suitable for taking care of the child.

DELHI HIGH COURT'S INTERPRETATION OF ACT, 2000

78. The question of whether inter-country direct adoptions are amenable to the jurisdiction of CARA has also been examined by this Court.

79. In *Dr. Jaswinder Singh Bains v. CARA, W.P (C) 8755/2011* decided on *13th February, 2012*, the Petitioners, had directly adopted a child from a couple and also executed a duly registered adoption deed. The Civil Judge (Sr. Division), Patiala issued a declaratory decree to the effect that the Petitioner was the guardian of the child under Section 7 of the Guardians and Wards Act. Since the Petitioners resided in Canada, they wished to take the child with them, but the Family Services of Greater Vancouver sought a NOC from CARA. Since CARA did not respond to the Petitioner's request for a NOC, the parents filed a writ petition against CARA.

80. Following *Lakshmi Kant Pandey* (supra) and *Anokha* (supra), the High Court ruled that when inter-country adoptions are made directly from natural parents, a NOC from CARA was not required, since the procedural rules were inapplicable to cases of direct voluntary adoptions.

81. In *Swaranjit Kaur* (supra) the Petitioners therein adopted a child, executed an adoption deed and obtained a declaratory judgment from the competent civil court. In the said case, a NOC had been issued by CARA and since the Petitioners wanted to take the child back to Alberta, Canada, the Alberta Government inquired from CARA India as to the authenticity of the NOC that had been issued. Meanwhile, the Canadian Immigration Department wrote to the Petitioner stating that CARA had informed the Immigration Department that the NOC in question had not been issued by them. The Petitioners filed a writ petition under Article 226 in the Delhi High Court after they failed to obtain a response from CARA on the issue of the NOC.

82. This Court held in the said judgment that this was a case of inter-country direct adoption by a relative and following the decision of

Jaswinder Singh Bains (supra) respondent-CARA had no role whatsoever to play with respect to direct adoptions.

83. In view of aforesaid binding judgments of the Apex Court and this Court, the judgment of the Madras High Court in ***Mr. Tim Cecil and Mrs. Steffi Cecil*** (supra) offers no assistance to the respondent-CARA.

APPLICABILITY AND ANALYSIS OF ACT, 2015

84. This Court is in agreement with the submission of the learned Amicus Curiae that as the adoption deed in the present case had been executed before the Act, 2015 came into force, it would be governed by the Act, 2000 and not by the Act, 2015.

85. Since arguments were advanced with regard to the scope and interpretation of Act, 2015, this Court clarifies that though there is some ambiguity as to whether the Act, 2015, applies to inter-country direct adoptions, yet it is of the opinion that the scope of Section 60 of the Act, 2015, should be expanded to cover all forms of inter-country direct adoptions. This interpretation would advance the best interest of the child whose family wishes to give him/her in adoption and also ensure that the sanctity of the adoption process is respected and the best interest of the child is scrupulously safeguarded. This Court may mention that in exercise of its writ jurisdiction, it has the power to expansively interpret a provision of a statute in order to achieve the objects and reasons which the law seeks to achieve and to reach injustice wherever it is found. [See ***Dwarka Nath Vs. ITO, (1965) SCR 536***]

86. The respondent-CARA should ensure that the applications for approval/NOC are processed in a child friendly manner and that too, in a

strict time frame. After all, incorporation of safeguards should not lead to harassment and delay.

87. This Court suggests that the respondent-CARA should consider the option of appointing a panel of Psychologists, Lawyers as well as NGOs in all the States so that the Child Study Report and Home Study Reports in the case of domestic adoptions, if applicable, in India are prepared scientifically in a time bound manner. The local police as well as Anti Trafficking Unit of the Ministry of Home Affairs should be asked to give their response to the Adoption application within a strict time frame. If response is not received from statutory/government authority within the time-frame prescribed, it should be presumed that said authority has no objection to the adoption.

ANALYSIS OF FACTS OF THE PRESENT CASE

88. In view of the Home Study Report as well as the Dossier prepared by the Central Adoption Authority of Canada in accordance with the Hague Convention, 1993, as well as the decree of declaration passed by the Additional Civil Judge (Senior Division), Zira that the petitioner is the adoptive parent of the minor and the natural mother has no right to claim the child as her daughter and adoption deed is legal, valid, genuine and binding, this Court is of the opinion that the minor M.H. is legally free for adoption.

89. The decision of **Mr. Tim Cecil** (supra) cited by the learned counsel for respondent-CARA is inapplicable to the present case as a favourable Home Study Report of CARA, Canada, has been furnished by the petitioner.

90. This Court in view of the CARA Canada's report, is also of the opinion that the adopted child would get all rights qua the adoptive parents in her new country of residence.

ANSWERS TO THE ISSUES RAISED IN DR. ABHA AGRAWAL (SUPRA)
AS WELL AS IN THE PRESENT CASE AND CONCLUSIONS

91. The survey of the domestic law and international conventions leads to the following conclusions:

- a. As the adoption deed in the present case has been executed under HAMA, 1956, before the Act, 2015 came into force and the adoption deed has been held to be legal, valid and genuine by the Additional Civil Judge (Senior Division), Zira in a civil suit filed by the adoptive parents against the natural mother, the adoption in the present case is governed by the Act, 2000 and not by Act, 2015.
- b. The Act, 2000 read with the Rules, 2007 and the Guidelines, 2015 expressly lays down a procedure for adoption only in relation to a child who is an orphan or abandoned or surrendered, and does not cover inter-country direct adoption.
- c. The Act, 2000 read with the Rules, 2007 and the Guidelines, 2015 provides that a child is surrendered when the parents wish to relinquish him/her to the CWC and a formal act takes place by which the child is surrendered by the natural parents to the CWC. Once the surrender is complete, the parents have no role in the future of the child and the CWC alone decides the best course for the child's future before the child is adopted.

- d. A child given in direct adoption cannot be termed as a “*surrendered child*”, since there is no relinquishment of the child, by the parents to the CWC.
- e. The Supreme Court in ***Lakshmi Kant Pandey*** (supra) as well as ***Anokha*** (supra) and the High Court of Delhi in ***Dr. Jaswinder Singh Bains*** (supra) and ***Swaranjit Kaur*** (supra) have categorically and conclusively held that all inter-country direct adoptions are outside the scope of the rules set out for adoptions under the Act, 2000 and the Rules/Guidelines framed there-under.
- f. In view of the aforesaid binding precedents, there is no scope for incorporation of the concept of *parens patriae* in inter-country direct adoption cases under the Act, 2000, specially when the adoption deed has been declared to be legal, valid, genuine and binding by a competent court.
- g. Rule 26 of the Guidelines, 2011 is a procedural provision and it does not advance the case of the respondent-CARA.
- h. In view of CARA, Canada's approval for adoption and its favourable home study report as well as the decree of declaration passed by Additional Civil Judge (Senior Division), Zira, this Court is of the opinion that the requirements of Articles 5 and 17 of the Hague Convention are satisfied in the present case.

- i. Consequently, in cases of inter-country direct adoption like the present case, NOC from respondent- CARA is not required under the Act, 2000 and the Guidelines, 2011.
- j. The Regional Passport Officer/MEA cannot insist on issuance of an NOC by respondent-CARA before processing the petitioner's application for issuing a Passport to the adopted child.

EPILOGUE

92. Delay in adoption means that the minor has to live with uncertainty and insecurity. Hugh Jackman rightly observed that, "*adoption is a blessing all round when it's done right*".

93. In the present case, despite having been adopted more than nine years ago, the minor has till date not been integrated with her adoptive family in her new country of residence. In view of the Additional Civil Judge's decree dated 03rd February, 2012, which has attained finality the minor cannot even return to her natural mother.

94. The minor today has less than a year, before she attains majority. Consequently, it is essential that the passport is issued to the minor expeditiously.

RELIEF

95. Accordingly, the present writ petition and applications are disposed of with a direction to respondent-CARA to grant an NOC to the petitioner for taking her adopted child namely, M.H., to Canada within a period of two

weeks. Ministry of External Affairs/Regional Passport Officer is also directed to issue her a passport within two weeks thereafter.

96. Before parting with the judgment, this Court places on record its appreciation for the services rendered by Mr. Amit Sibal, learned Amicus Curiae. He with his usual scholarship lifted the level of debate and painstakingly researched the law of adoption.

97. This Court only hopes that the petitioner and the minor at the end of the adoption process feel what an adoptive mother and founder President of Joyful Heart Foundation felt that adoption was a bumpy ride - very bumpy; but, it was worth the fight.

98. This Court lastly directs respondent-CARA to streamline and simplify the procedure for adoption under the Act, 2015 in accordance with suggestions given in paras 86 and 87 of this judgment. After all, respondent-CARA must appreciate what a U.S. President once said, *"Belonging to a family is a natural and vital component of life and every child deserves to be a member of a loving and nurturing family."*

MANMOHAN, J

JULY 18, 2016

rn/js/NG