

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 14886/2024

[Arising out of impugned final judgment and order dated 17-04-2024
in WPC No. 33803/2023 passed by the High Court of Judicature at
Madras]

PREMA GOPAL

Petitioner(s)

VERSUS

CENTRAL ADOPTION RESOURCE AUTHORITY & ORS.

Respondent(s)

[TO BE TAKEN UP AT 2 P.M.]

FOR ADMISSION and I.R.

IA No. 147703/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

Date : 29-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) :Mr. Anil Malhotra, Adv.
Mr. Ranjit Malhotra, Adv.
Mr. Viresh B. Saharya, AOR
Mr. Ankit Malhotra, Adv.
Mr. Akshat Agarwal, Adv.
Mr. Rishabh Mathur, Adv.

For Respondent(s) :Ms. Aishwarya Bhati, A.S.G.
Mr. R Balasubramanian, Sr. Adv.
Shubham Saxena, Adv.
Shivika Mehra, Adv.
Astha Singh, Adv.
Advitiya Awasthi, Adv.
Abhijeet Singh, Adv.
Dr. N. Visakamurthy, AOR

Ms. G. Indira, AOR
Ms. Gandeepan, Adv.

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

We have heard learned counsel for the petitioner,

learned ASG appearing for respondent no.1 and Smt. G.Indira

for respondent nos. 2 and 3 and perused the voluminous

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material that has been appended to the memorandum of the Special Leave Petition.

Learned counsel appearing for the petitioner submitted that the petitioner is a citizen of United Kingdom (UK), who has adopted two minor children (twins) on 09.01.2020 vide Annexures P-1 and P-2 appended to the Special Leave Petition. He further submitted that the said adoption of the two minor children was further incorporated by a Deed of Adoption dated 19.09.2022 (Annexures P-4 and P-5), which clearly indicate that the physical act of giving and taking of both the twin children in adoption was performed on 09.01.2020 along with the performance of the Hindu religious ceremonies in the presence of relatives and friends, which is also supported by Annexure P-1/Invitation.

Learned counsel submitted that having regard to Section 16 of the Hindu Adoptions and Maintenance Act, 1956 (for short, "the HAMA, 1956"), there is a presumption as to registered documents relating to adoption.

Since the petitioner herein is a citizen of UK, the procedure for adoption of children under the HAMA, 1956 by parents who desire to relocate the child abroad, as envisaged under Chapter VIII of the Adoption Regulations, 2022 ("Regulations, 2022") has to be followed.

In this regard, our attention was drawn to Regulations 64 and 67 of the Regulations, 2022, which read as under -

"64. This Chapter shall apply to - (a) all adoption cases under the Hindu Adoptions and Maintenance Act,
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1956 (78 of 1956) by prospective adoptive parents or adoptive parents residing outside the country and

(b) all adoption cases pertaining to countries outside the Hague Adoption Convention.

67. Procedure in the case of registered adoption deed.- (1) In the cases where the adoption deed has already been executed in pursuance of adoption under the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), before the commencement of the Adoption (Amendment) Regulations, 2021, the requisite documents supporting the facts of the adoption deed shall be duly verified and recommended by the District Magistrate in the format as provided in Schedule XXXV.

(2) On receipt of the verification of documents as per Schedule XXXV, the Central Adoption Resource Authority shall comply with the provisions of Articles 5 or 17 from the receiving country as provided in the Hague Adoption Convention.

(3) Upon receiving such certificate, the Central Adoption Resource Authority shall issue no objection certificate for Hague ratified countries and in cases of countries outside the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, the Central Adoption Resource Authority shall issue a support letter upon receiving a letter accepting the said adoption from the Government department."

Learned counsel submitted that although the adoption of the twin children in the instant case took place on 09.01.2020, the Deed of Adoption was subsequently registered on 19.09.2022. He submitted that the said Deed of Adoption would relate back to 09.01.2020, on which date the religious ceremonies were performed in the presence of relatives and friends for the formal adoption of the children under the provisions of the HAMA, 1956. In the circumstances, Regulation 67 has to be read in a manner relatable to the date of

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adoption. The submission of learned counsel was that although the Deed of Adoption was registered on 19.09.2022 which is subsequent to the commencement of the Adoption (Amendment) Regulations, 2021, the said Deed of Adoption relates back to the date of adoption being 09.01.2020. In the circumstances, there can be no hurdle in the consideration of the case of the petitioner herein under Regulation 67 of the Regulations, 2022. Therefore, he urged that initially a direction may be issued to respondent no.3/Collector, and respondent no.2 as well, for the purpose of consideration of the case under Regulation 67 of the Regulations, 2022.

Per contra, learned ASG appearing for respondent No.1/Central Adoption Resource Authority contended that this is a case of inter-country adoption and therefore, the procedure as envisaged under the Regulations for inter country adoption must be strictly complied with. In this regard, our attention was drawn to Regulations 67 and 68 of the Regulations, 2022 as well.

Learned counsel appearing for respondent nos. 2 and 3 submitted that if any direction is to be issued to respondent nos.2 and 3, the same would be complied with in accordance with law.

We are *prima facie* of the view that the learned counsel for the petitioner is right in his submissions.

In the circumstances, we direct respondent no.3/Collector

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and respondent no.2 to entertain the application to be filed by the petitioner herein with all supporting documents, within a period of one week of from today.

On receipt of the said application, respondent nos.3 and 2 shall consider the case of the petitioner herein having regard to the relevant provisions of the Regulations, 2022 and in accordance with law bearing in mind the fact that the adoption took place on 09.01.2020.

Liberty is reserved to the petitioner herein to seek right of hearing before respondent no.3 either in person or through her representative or counsel.

It is needless to observe that if such a request is made by the petitioner for an opportunity of hearing to her or her representative or counsel, the same shall be accorded by respondent no.3/Collector.

The entire exercise shall be completed by respondent nos.3 and 2 within a period of two weeks from the date of hearing of the petitioner.

A copy of the order of respondent no. 3 to be submitted before this Court by respondent no.3 herein.

List on 05.03.2025.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)