



**MOOT COURT
SOCIETY**



ICFAI LAW SCHOOL, IFHE, HYDERABAD
PRESENTS

11th SHRI NJ YASASWY
MEMORIAL MOOT COURT
COMPETITION 2026

MOOT PROPOSITION

4th – 6th SEPTEMBER' 26

**PRIZE POOL OF
₹2,00,000/-**

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MOOT PROPOSITION

1. Mr. Arjun Mehra (aged 38), and Mr. Rohan Kapur (aged 37) are Indian citizens domiciled and permanently resident in Mumbai.

2. Mr. Arjun Mehra and Mr. Rohan Kapur first met in June 2012 while employed at the Mumbai office of a multinational technology corporation. Their professional acquaintance developed into a personal relationship by August 2014. In December 2016, they solemnized their commitment through a private ceremony in Govapuri, attended by family and friends.

3. On 5th March 2022, Mr. Arjun Mehra cryopreserved his sperm sample at Hulk ART Bank, Mumbai, a facility duly registered under the Assisted Reproductive Technology (Regulation) Act, 2021 (to be referred to as "ART Act"). On 11 March 2022, Mr. Rohan Kapur also cryopreserved his sperm sample at Lyfee ART Bank. Both the clinics obtained a written informed consent in the prescribed form and issued a ten-year storage certificate in accordance with Assisted Reproductive Technology (Regulation) Rules, 2022.

4. In early 2023, Arjun and Rohan consulted fertility specialists in India as they desired to have a biological child. They were advised by multiple clinics that Section 4 of the Surrogacy (Regulation) Act, 2021 (to be referred to as "The Act"), restricts eligibility for commissioning surrogacy in India to an "intending couple" or "intending woman". The Act explains the term "couple" under Section 2(1)(h) as "a legally married Indian man and woman above the age of 21 years and 18 years" and that no domestic/ locally registered clinic would undertake a surrogacy arrangement for two male persons, irrespective of their relationship. They were further informed that no exception or waiver mechanism exists for same-sex couples under The Act or the ART Act.

5. Arjun and Rohan, disheartened by this news, consulted multiple agencies and conducted online research. Subsequently, they found and identified Capellonia in the United States of America as a sovereign State whose domestic law under Family Code permits gestational surrogacy by intending parents including unmarried individuals and same-sex male couples. It required parties to enter into agreements and subsequently seek judicial authorization by a competent Court.

6. In September 2023, Arjun and Rohan entered into a preliminary agreement with Sunrise Fertility Clinic LLC, Folsom Street in San Francisco, Capellonia ("Sunrise Clinic"), a licensed reproductive medicine facility operating under the law. The arrangement required: (i) the lawful export of gametes from India to San Francisco; (ii) fertilization of an anonymously donated egg

with one Mr. Arjun's and Rohan sperm; (iii) notarised and executed agreement between the intended parents and surrogate mother by different attorneys and (iv) a pre-birth parentage order from the San Fresno Unified Family Court recognizing the intended parents as the legal parents of the child upon birth.

7. Pursuant to Section 27 of the ART Act, 2021 read with Regulation 19 of the Assisted Reproductive Technology (Regulation) Rules, 2022 which mandates prior Board approval for the export of cryopreserved gametes, Mr. Rohan submitted an application to the Board on 1st October 2023. The application disclosed that the exported sperm would be used in a gestational surrogacy arrangement in the San Fresno, Capellonia, USA and furnished: (a) the Sunrise Clinic's registration certificate under the law; (b) medical fitness certificates; (c) storage certificates from the ART Banks; and (d) declarations of informed consent.

8. By Order dated 30th October 2023, the Board rejected the application of Mr. Rohan. The Board's sole stated reason was that the intended use - gestational surrogacy by single men— would, if conducted in Indicana, be impermissible under Section 4 of the Surrogacy Act, and that permitting the export of gametes for such a purpose abroad would defeat the legislative intent and policy of The Act.

9. Subsequent to the rejection, after some time, Mr. Arjun Mehra filed an application on 10th December 2023 requesting the transfer of his sperm. Mr. Arjun Mehra's application was accompanied by a legal opinion from a Senior Advocate, certifications from the foreign fertility clinic regarding compliance with local law, and an undertaking that the export would be used only in accordance with the laws of the destination jurisdiction. By Order dated 20th February 2024, the Board approved the application of Mr. Arjun Mehra, noting that the export of gametes/sperm by an individual was not per se prohibited and that the law did not expressly bar export for overseas surrogacy.

10. Following approval of Mr. Arjun Mehra's application, his sperm sample was exported under applicable medical transport regulations. Mr. Arjun and Mr. Rohan appointed Delomone Law Firm to draft and execute the agreement for surrogacy as per the law of the State. Sunrise Clinic matched the sample with an anonymous egg donor selected in accordance with Capellonian law and identified Ms. Elena Petrova, a US citizen aged 29, as a suitable gestational surrogate mother for the couple. Ms. Elena also hired an attorney, Mr. Blake Marge, to execute an agreement to carry out gestational surrogacy with Mr. Rohan and Mr. Arjun. Subsequently, the agreement was notarised and executed between the parties in the presence of Mr. Reshan, attorney at Delomone Law Firm and Mr. Blake Marge.

The parties applied to the Unified Family Court for a parentage order of the child. The Family Court approved the surrogacy agreement between the parties. On 14th November 2024, the Unified Family Court issued a pre-birth parentage order recognizing both Mr. Arjun Mehra and Mr. Rohan Kapur as the intended legal parents of the child to be born to Ms Petrova. It mandated postnatal DNA confirmation of biological parentage to avoid potential legal challenges in the future.

11. On 28th November 2024, an embryo created from Mr. Arjun Mehra's sperm and the donor egg was transferred to Ms. Petrova. The pregnancy proceeded without medical complications. During the second trimester, Mr. Rohan Kapur temporarily relocated to San Fresco to provide support to the surrogate mother. Mr. Arjun Mehra remained in Indiana throughout, maintaining Indicanan domicile and tax residence.

12. On 6th September 2025, a male child (named "Rio") was born at Sunrise Hospital, San Fresco. Post-natal DNA testing was conducted by an accredited laboratory on 10th September 2025, confirming that Mr. Arjun Mehra is the biological father of the Child. On 20th September, 2025, pursuant to the pre-birth order, a birth certificate naming Arjun Mehra and Rohan Kapur as the parents of Rio was issued.

13. On 15th October 2025, the Mr Arjun and Mr. Rohan applied to the Consulate General of Indiana, San Fresco ("Consulate") for: (i) registration of the Child's birth with the Indicanan consular authority; (ii) recognition of the Child's Indicanan citizenship by descent under Section 4 of the Citizenship Act, 1955; and (iii) issuance of an Indicanan passport. The application was accompanied by: The San Fresco, Capellonia birth certificate; the DNA report confirming Mr. Arjun Mehra's biological paternity; the pre-birth Unified Family Court Order; the surrogacy agreement; and affidavits of parental intent from both parties.

14. On 28th October, 2025, the Consulate rejected the application by a written order ("the Consulate Order") which stated that: (a) Indiana does not recognize surrogacy arrangements undertaken abroad in contravention of the eligibility conditions prescribed by the Surrogacy Act; (b) the San Fresco, Capellonia birth certificate, insofar as it names two male persons as parents, is contrary to the public policy of Indiana and shall not be given effect; (c) Section 4 of the Citizenship Act, 1955 requires that, for citizenship by descent, the parent through whom citizenship is claimed must be an Indicanan citizen and the required form conditions were not duly met; and (d) it was not satisfied that the requisite conditions were met. It directed them to "resolve parentage status through competent judicial authority in Indiana" before reapplying, without identifying any specific mechanism or timeline for doing so.

15. 1st January 2026, Mr. Arjun and Mr. Rohan approached the Supreme Court of Indiana against the Government of Indiana and other parties thereby challenging: (i) the Board Order dated 30th October 2023, rejecting Mr. Rohan Kapur's gamete export application; (ii) the Consulate Order dated 28th October, 2025 for refusing registration of birth, recognition of citizenship, and issuance of a passport; and (iii) the non-recognition of their joint parentage rights under the Indicanan law. The matter was listed before the Division bench of

the Supreme Court of Indicana, however, upon preliminary hearing the Court was of the opinion that the subject matter involves a substantial question of Constitutional law. Therefore, the Division Bench passed an order dated 15th January 2026, referring and directing it to be listed before the Constitution Bench. The matter is listed for hearing before a Constitution Bench of the Supreme Court of Indicana.

ISSUES FOR ADJUDICATION

ISSUE I- Whether the eligibility restrictions, discretionary powers of the Board, and reproductive limitations under the Surrogacy (Regulation) Act, 2021, and the Assisted Reproductive Technology (Regulation) Act, 2021, are constitutionally valid?

ISSUE II - Whether the pre-birth parentage order issued by the Unified Family Court, San Fresno is entitled to recognition in Indicana under the applicable rules of private international law, and can recognition be denied on domestic legislation?

ISSUE III - Whether the Consulate Order dated 28th October, 2025, refusing registration of the Child's birth and issuance of a passport is arbitrary and in violation of child's rights and is the child entitled to be granted Indicanan citizenship under the Indicanan laws?

ISSUE IV - Whether Indicana's international obligations under the UNCRC and customary international law principles against statelessness require domestic courts to interpret the Citizenship Act, 1955, and the Surrogacy (Regulation) Act, 2021, in a manner that secures the Child's right to a nationality, and can the best interests of the Child constitute an independent ground for relief?

Notes:

1. All laws in force in the Republic of Indicana are in parimateria with the laws of the Republic of India, and the Constitution of Indicana is identical, in all respects, to the Constitution of India.
2. All laws in force in Capellonia are in parimateria with the laws of the State of California, United States of America.

The Moot Proposition is drafted by Dr. Shruti Kandoi Pathak.

Any attempt to contact the above-mentioned person in any manner by any participating team shall result in immediate disqualification.