

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Civil Revision No. 1480 of 2015 (O&M)**

**Date of decision : 02.03.2015**

Laxmi

.....Petitioner

VS

Chandanmal Chauhan @ Bagri

.....Respondent

**Coram : Hon'ble Mr. Justice Rajesh Bindal**

**Present :** Mr. Naveen Singh Panwar, Advocate  
for the petitioner.

**Rajesh Bindal, J.**

Learned counsel for the petitioner submitted that marriage between the petitioner and the respondent was solemnised on 22.5.1999. Two children, namely, Sunny and Sonali, were born out of the wedlock on 20.7.2002 and 7.10.2003, respectively. The petitioner was shunted out of the matrimonial home on 15.2.2005. As all efforts to reconcile failed, a divorce petition was filed by the petitioner on 15.5.2007 when she was residing with her parents in Hyderabad. The respondent was served in the divorce petition. He appeared and filed reply, however, lateron absented. Ex-parte decree of divorce was passed in favour of the petitioner on 18.3.2009.

During the pendency of the divorce petition, the respondent filed a petition under Section 25 of the Guardian and Wards Act, 1890 (hereinafter referred to as 'the Act') for custody of minor children on 30.4.2008 giving address of the petitioner of “Mohalla Kot, Sonapat”, where the petitioner never resided. Despite the fact that the proceedings in the divorce petition filed by the petitioner were pending at that time, the petitioner was proceeded against ex-parte in the petition filed by the

respondent for custody of children. Direction was issued to the petitioner on 6.1.2012 for handing over custody of the children to the respondent, who are residing with the petitioner ever since their birth. The execution of the order dated 6.1.2012 was filed by the respondent. The petitioner was served in the execution at her Delhi address where she had shifted in June, 2007. When she came to know about the ex-parte order, she filed application for setting aside the ex-parte order. Learned court below has fixed the execution for final arguments, whereas the application filed by the petitioner for setting aside the ex-parte order, which is listed in a different court, has not yet been decided. The prayer is for a direction to the court below for decision of the application for setting aside the ex-parte order on the application filed by the respondent under the Act before deciding the execution petition.

The next date of hearing in both the cases i.e. in the execution petition as well as in the application for setting aside the ex-parte order dated 6.1.2012 is stated to be 7.4.2015, but in different courts.

Considering the submissions made by the learned counsel for the petitioner, in my opinion the present petition can be disposed of without issuing notice to the respondent with the observation that files of both the cases be put up before the learned District Judge, Sonapat, who shall entrust the same to one Court and the learned Transferee court shall first decide the application filed by the petitioner for setting aside the ex-parte order passed by the Court in the petition filed by the respondent for custody of minor children and thereafter take up the execution petition filed by the respondent.

In case the respondent has any grievance, he shall be at liberty to file an application in the present petition.

The petition stands disposed of accordingly.

Rajesh Bindal  
Judge

2.3.2015  
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