

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 1593 of 2013 (O&M)
Date of Decision: 03.3.2015.

Tarun Bansal @ Sonny

.....Petitioner

Versus

Neelam Rani

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Dhirinder Chopra, Advocate
for the petitioner.

Mr. Aakash Singla, Advocate
for the respondent.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 1.2.2013 (Anneuxre P-3) whereby application moved by the petitioner under Section 9 of Guardians and Wards Act, 1890 ('Act' for short), was dismissed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Section 9 (1) of the Act reads as under:-

Court having jurisdiction to entertain application.—

“If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.”

Thus, as per the above provision, application with respect to guardianship of a minor has to be made to the District Court where the minor ordinarily resides.

Parties got married on 11.5.2003 and started residing at Rama Mandi, District Bathinda. Parties were blessed with a son and a daughter out of their wedlock. The son is now aged about 8 years whereas the daughter is now aged about 11 years. Admittedly, both the children are studying in RMM DAV Senior Secondary Public School, Bangi Road, Raman.

Case of the respondent is that she was thrown out of the matrimonial home on 3.6.2012 along with the children and she started residing in her parental home at Tapa. The case of the respondent further is that her father-in-law took away the minor children on 8.6.2012. Hence, the respondent filed a petition under Section 25 of the Act seeking custody of the children in the Court at Barnala.

During the pendency of the petition, petitioner moved an application under Section 9 of the Act that the Court at Barnala had no jurisdiction to try the case as the minor children were residing at Rama Mandi and the Courts in District Bathinda had the jurisdiction to try the case. The learned Trial Court erred in dismissing the application filed by the petitioner on the ground that the minor children were illegally taken by the petitioner to Rama Mandi. In the present case, admittedly, the children were studying in the school at Rama Mandi and had apparently stayed at Tapa only for five days. Hence, the place where the minor children ordinarily resided, was at Rama Mandi and as per Section 9 (1) of the Act, petition could have been filed in the Court within district

Bathinda.

Accordingly, this petition is allowed. Impugned order dated 1.2.2013 (Annexure P-3) is set aside. Consequently, application moved by the petitioner under Section 9 of the Act, is allowed.

**(SABINA)
JUDGE**

**March 03, 2015
Gurpreet**