

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

C.R. No. 8616 of 2015 (O&M)

Date of decision : 18.12.2015

Harjit Singh

....Petitioner

versus

Sarita Saini

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Divyadeep Walia, Advocate
for the petitioner.

RITU BAHRI , J. (Oral)

Challenge in this petition is to order dated 05.10.2015 passed by learned District Judge Family Court, Ambala whereby petition under Section 25 of the Guardian and Wards Act, 1890 (for short 'the Act') filed by the petitioner has been rejected by suo moto invoking powers under order 7 Rule 11 CPC.

The petitioner filed a petition on 05.08.2013 under Section 25 of the Act seeking custody of his minor child from his respondent-wife. Written statement was filed by the respondent and the issues were framed and thereafter, both the parties led their evidence and the arguments were heard on 05.10.2015 and the petition filed by the petitioner was dismissed by observing that as per Section 10 (3) of the Act, any petition filed under

this Act shall be verified in the manner prescribed by CPC for signing and verification of the plaint, as prescribed under Order 6 Rule 15 CPC. The learned trial Court held that since the verification clause at the end of the plaint is not as per Order 6 Rule 15 CPC, a material violation has occurred.

The verification clause reads as under:-

“Verified that the contents of above petition are correct and true to the best of my knowledge & belief.”

Reference at this stage can be made to Order 6 Rule 15 CPC, which reads as under:-

Order 6 Rule 15 of CPC reads as under :

“15. Verification of pleadings.-(1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

(4) The person verifying the pleading shall also furnish an affidavit in support of his pleadings.”

As per the above said Rule, the verification clause as written at the bottom of the plaint serves the purpose of the verification. The verification has to be made part of the petition. Another ground for rejection of the petition was that the application of the petitioner should be accompanied as per Section 10 (3) of the Act of willingness of the proposed guardian to Act and the declaration must be signed by him and attested by at least two witnesses.

At best this condition would be required to complete the pleadings by party for final decision on merits.

In view of the above, order dated 05.10.2015 passed by learned District Judge Family Court, Ambala is hereby set aside and a direction is given to the trial Court to accept the additional affidavit with regard to verification of the plaint and declaration under Section 10(3) of the Act, subject to payment of Rs.10,000/- as costs, to be paid to the respondent.

18.12.2015

G Arora

(RITU BAHRI)
JUDGE