

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 102 of 2016

- Smt. Renu Sharma W/o Shri Lalit Prakash Sharma, Aged About 27 Years R/o 9 Block, Dhanlaxmi Nagar, Bhanpuri, Raipur, Tahsil And District Raipur, Chhattisgarh

---- Petitioner

Versus

- Lalit Prakash Sharma S/o Shri Vishwas Prakash Sharma, Aged About 31 Years R/o Village Rudrol, Post Ud, Tahsil Charkhidadri, District Bhivani (Hariyana) At Present Working As Lecturer In Electronics Engineering Govt. Polytechnic Loharu (Hariyana)

---- Respondent

For Petitioner
For Respondent

Mr. R.K. Pali, Advocate
Mr. K.R. Nair and Ms. Veena Nair, Advocates

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

21/7/2016

1. Heard.
2. The Family Court has rejected the appellant's application under Section 9 of the Guardians and Wards Act, 1890 for want of jurisdiction.
3. In the application preferred by the appellant before the Family Court, Raipur, it is averred in paragraph 5 thereof that on account of dispute between the parties, a report was lodged with Mahila Thana, Raipur, wherein, compromise was entered into between the parties and thereafter, the appellant and their son Tejasvi were taken to Bhiwani (Haryana) on 27.03.2014. After residing for

few months, the respondent took the son on the pretext that they are going to meet their maternal uncle and maternal aunt (*Mausa & Mausii*), but they did not return. Thus, according to the appellant's own showing the minor is residing at Bhivani (Haryana) from 27.03.2014 onwards. Moreover, it is not that on the said date, the child was brought from Raipur to Bhivani (Haryana), but in fact, he was residing at Bhivani since after 27.03.2014.

4. Under Section 9(1) of the Act, if an 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.
5. In the matter of **Ruchi Majoo Vs. Sanjeev Majoo, (2011) 6 SCC 479**, it has been held by the Supreme Court that the words "ordinarily resides" would imply something more than a flying visit or casual stay.
6. Since in the pre sent case, the minor was not residing at Bhiwani as casual stay but was permanently staying there, the Family Court, Raipur, has rightly held that the application is not maintainable at Raipur.
7. We do not find any substance in the appeal, it deserves to be and is hereby dismissed. However, the appellant would be at liberty to move an application, before the Court having jurisdiction in the matter, in accordance with law.

Sd/-

Judge

(Prashant Kumar Mishra)

Sd/-

Judge

(Chandra Bhushan Bajpai)