

In the High Court of Punjab and Haryana at Chandigarh

T.A. No. 73 of 2016

Date of Decision: February 25, 2016

Nehreet Kaur

... Applicant

Versus

Shailender Paul Singh

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Ms. Loveleen Dhaliwal, Advocate,
for the applicant.

Ms. Navneet Kaur Sran, Advocate,
for the respondent.

Paramjeet Singh Dhaliwal, J. (Oral)

Reply by way of affidavit on behalf of respondent filed in Court today, is taken on record.

Instant application has been filed under Section 24 of the Code of Civil Procedure for transfer of petition, under Section 17 of the Guardians and Wards Act, 1890 (hereinafter referred to as the “Act”) read with Section 6 of the Hindu Minority and Guardianship Act, filed by the respondent titled as “Shailendra Paul Singh vs. Nehreet Kaur”, pending in the Court of learned Civil Judge (Senior Division)/Guardian Judge, Mohali, to the court of competent jurisdiction at Ludhiana.

I have heard learned counsel for the parties.

Learned counsel for the applicant contends that respondent-husband filed a petition under Section 17 of the Act read with Section 6 of

the Hindu Minority and Guardianship Act for custody of the minor children, which is pending before the learned Civil Judge (Senior Division), Mohali. Learned counsel further contends that minor daughter, namely, Arshiya Singh, whose date of birth is 26.04.2011 is residing in the territorial jurisdiction of District Ludhiana. Learned counsel further contends that in view of the provisions of the Act, petition under Section 17 of the Act read with Section 6 of the Hindu Minority and Guardianship Act, filed by the respondent, may be transferred to Ludhiana.

Per contra, learned counsel for the respondent vehemently opposes the contentions raised by learned counsel for the applicant.

I have considered the contentions raised by learned counsel for the parties and perused the record.

Section 9 of the Act reads as under:-

- “9. Court having jurisdiction to entertain application –** (1) *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.*
- (2) *If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.*
- (3) *If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.”*

Hon'ble Supreme Court in **Ruchi Majoo vs. Sanjeev Majoo,**

AIR 2011 SC 1952, has held that the solitary test for determining the jurisdiction of the Court under Section 9 of the Act is the ordinary residence of the minor.

Since, the minor daughter is residing with the applicant at Ludhiana and in view of Section 9 of the Act and keeping in view the decision of Hon'ble Supreme Court in **Ruchi Majoo (supra)**, petition under Section 17 of the Act read with Section 6 of the Hindu Minority and Guardianship Act filed by the respondent titled "Shailender Paul Singh vs. Nehreet Kaur", pending in the Court of learned Civil Judge (Senior Division), Mohali is withdrawn and ordered to be transferred to learned District Judge, Ludhiana, who may assign the same to the Court of competent jurisdiction there. Learned Civil Judge (Senior Division), Mohali shall ensure that entire record of the case is sent to learned District Judge, Ludhiana.

Parties are directed to appear before the Court of learned District Judge, Ludhiana on 15.03.2016.

Disposed of.

February 25, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge