

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CR No.2038 of 2016
Date of decision: 24.05.2018

Kuldeep Kaur

..... Petitioner

Versus

Sukhwinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None for the petitioner.

Mr. Mohit Rampal, Advocate
for the respondent.

ANIL KSHETARPAL, J.

Wife-petitioner is in the revision petition against the order passed by the learned trial Court dismissing the application under Order 7 Rule 11, CPC. The husband-respondent filed a petition under Section 25 of the Guardian and Wards Act, 1890 claiming custody of minor daughters namely Karamjit Kaur and Jaspreet Kaur. On notice, the petitioner-wife filed an application claiming that the Court does not have the territorial jurisdiction as the children are residing with her at Khairthal, District Alwar (Rajasthan) and as per Section 9 of the Guardians and Wards Act, 1890, the jurisdiction exclusively vests with the aforesaid Court.

In the reply, the husband claim that she is temporarily residing therein and ordinary residence means the residence should be permanent.

The learned trial Court dismissed the application while observing that the minors are not ordinary residents of District Alwar.

In the application, the wife has specifically asserted that both the

minor girls are school going and are studying in District Alwar. Such fact is not being disputed. Provisions of Section 9 of the Guardian and Wards Act, 1890 confers exclusive jurisdiction to the Court where minor ordinarily resides. Even the petitioner-wife when impleaded as respondent in the petition was shown to be resident of District Alwar.

In view thereof, the order under challenge is set aside.

Learned trial Court is requested to return the petition to the respondent-husband for presentation before the competent Court of jurisdiction.

Revision petition is allowed.

24.05.2018

Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No