

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 379 of 2018 (O&M)

Date of decision : 15.1.2019

...

Sunaina

.....Applicant

vs.

Surender Kumar

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Ms. Monika Sharma, Advocate for the applicant.

Mr. Ravi Sodhi, Advocate and
Mr. M.M. Panday, Advocate for the respondent.

...

H. S. Madaan, J. (Oral)

CM 412-CII-2019

This is an application for restoration of transfer application
dismissed in default on 17.12.2018.

Heard.

In the interest of justice, the application is accepted and
transfer application is ordered to be restored and registered at its
original number.

The main case is taken up today.

Main case

Heard.

By way of moving the present application under Section 24 read with Section 151 CPC, applicant Sunaina, aged about 27 years, estranged wife of Surender Kumar – respondent, presently residing with her parents at Fazilka, seeks transfer of petition under Sections 7, 17 and 25 of Guardians and Wards Act, 1890, for custody of minor son of the parties, namely, Lovepreet, presently residing with the applicant, pending in the Court of District Judge, Sirsa, having title 'Surender Kumar vs. Sunaina', to a Court of competent jurisdiction at Fazilka.

Notice of the application was given to the respondent, who has appeared through counsel and is opposing the application vehemently.

I have heard learned counsel for the parties, besides going through the record.

Section 9 of the Guardians and Wards Act, 1890 provides that the application with respect to the guardianship of the person of the minor, is to be made to the District Court having jurisdiction in the place where the minor ordinarily resides. In this case, as per version of the applicant, the minor son of the parties, namely, Lovepreet is residing with her at Fazilka. Therefore, the petition should have been filed in the Court of competent jurisdiction at Fazilka.

Accordingly, the present application is disposed of relegating the applicant to the remedy of approaching the trial Court, moving appropriate application seeking return of the petition on account of lack of territorial jurisdiction, for presentation to the Court of

competent jurisdiction at Fazilka. However, if after disposal of the application, the applicant is still dissatisfied then she would be at liberty to approach this Court again.

15.1.2019
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No