

**Sr. No.213
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**TA No.852 of 2019 (O&M)
Date of Decision: 19.02.2020**

Sonal Aggarwal

... Applicant

Versus

Rajat Aggarwal

... Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Ms. Shreya Vashishta, Advocate,
for the applicant.

Respondent in person.

ARUN MONGA, J.(ORAL)

1. Applicant-wife seeks transfer of petition filed by the respondent-husband bearing registration No.GW24 of 2017 under Section 43(2) and 43(3) of the Guardians and Wards Act, 1890 read with Section 6 and 8 of the Hindu Minority and Guardianship Act, 1956 to regulate the conduct of the applicant and seeking direction to prevent the abuse of the trust of the office of the Guardianship with respect to sum held in the form of the fixed deposit of Rupees Five Lakhs (Rs.5,00,000/-) in the name of the applicant in trust for the benefit of minor pending in the Court of learned Civil Judge, (Senior Grade) Cum Additional Chief Judicial Magistrate, Gurugram to the Court of competent jurisdiction at Mohali.

2. Learned counsel for the applicant submits that applicant-wife earlier filed petition under Section 7 and 25 of Guardian and Wards Act read with Section 6 of the Hindu Minority and Guardianship Act for the custody of minor daughter and the

same was allowed on 30.05.2017.

3. Learned counsel for the applicant further submits that the applicant-wife is residing at Zirakpur with her old age mother. The distance between Gurugram and Mohali is about 300 Kms. One minor daughter born out of the wedlock is residing with the applicant and school going, who needs constant care and attention of the mother. She cannot leave her behind to attend the Court proceedings. Therefore, it is difficult for her to go to Gurugram on each date of hearing.

4. Respondent appears in person and opposes the transfer application.

5. I have heard learned counsel for the applicant and respondent in person and have gone through the record of the case.

6. The case pending between the parties is aftermath of matrimonial discord and with regard to sum held in the form of Fixed Deposit of Rupees Five Lakhs (Rs.5,00,000/-) in the name of the applicant in trust for the benefit of the minor.

7. Reference may also be had to the observations made by Hon'ble the Supreme Court of India in cases titled as "***Sumita Singh Vs. Kumar Sanjay and another***", ***AIR 2002 SC 396*** and ***Rajni Kishor Pardeshi v. Kishor Babulal Pardeshi***" ***2005 (12) SCC 237***, wherein in matrimonial matters, convenience of wife is to be preferred over the convenience of husband.

8. Even otherwise, the ethos as manifested under Article 51-A of Constitution of India also envisage that it shall be

fundamental duty of every citizen of India to uphold the dignity of woman. In addition, per Article 15 (3), power has also been conferred on the State to make special provisions for women and children.

9. Indisputably, minor child of the parties is residing with the applicant at Zirakpur. Section 9(1) of the Guardians and Wards Act, 1890 provides that the jurisdiction to try application vests with Court, where the minor ordinarily resides.

10. In the premise, present application is allowed. The petition in question pending before the Court of Learned Civil Judge, (Senior Grade) Cum Additional Chief Judicial Magistrate, Gurugram is ordered to be withdrawn from that Court and is transferred to the District Judge, Mohali for its disposal in accordance with law by the Court concerned.

(ARUN MONGA)
JUDGE

19.02.2020

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No