

**112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4602-2017 (O&M)

Date of decision: 23.11.2022

Sikander Rana and another

....Petitioners

Versus

Pankaj Rana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vineet Chaudhary, Advocate for the petitioners

Mr. Kanwar Abhay Singh,
Mr. Govind Rana and
Mr. Rajesh Jangra, Advocates for the respondent

ANIL KSHETARPAL, J (Oral)

As per Section 9 of the Guardians and Wards Act, 1890, the court where the minor child '*ordinarily resides*' has the jurisdiction to entertain and try the cases filed under the Act. The dispute is with regard to the custody of a minor child Pranay Rana. The petitioners herein are the maternal grandfather and maternal uncle of the minor child, whereas, the respondent is minor child's father. Admittedly, the child has been residing with his maternal grandfather and uncle since 2013 and continues to do so. The respondent has been convicted of killing his wife, though his appeal is pending. The child is studying in a school at Ambala.

Section 9 of the Guardians and Wards Act, 1890, reads as under:-

9. Court having jurisdiction to enter 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.

Learned counsel representing the respondent submits that the expression used in the Act is in the context of the ordinary residence of a child but does not refer to his actual/present residence. No doubt, the expression used in the statute is '*ordinarily resides*', however, if the child continues to reside at a particular place for a sufficiently long time, the expression '*ordinarily resides*' would be interpreted to mean that the child is ordinarily residing at that particular place.

In view of the aforesaid, the petition filed before the Guardian Judge, Ludhiana, be returned to the respondent with liberty to present the same before the competent Court in the territory of Ambala.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

23.11.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE