

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3487 of 2021

Date of Decision: 24.03.2022

Neha

... Petitioner(s)

Versus

Naveen

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rahul Sidher, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The petitioner's application under Section 25 of the Guardians and Wards Act, 1890 (hereinafter referred to as "the 1890 Act") has been rejected by the Principal Judge, Family Court, Hisar on the ground of lack of territorial jurisdiction.

2. It is established from the perusal of the file that the two minor children of the parties are studying at Chirawa, District Jhunjhunu (Rajasthan), which is their original place of residence. The petitioner prays for their custody. As per Section 9 of the 1890 Act, the petition under Section 25 of the 1890 Act, shall be filed before the court, where the children are residing.

3. The learned counsel representing the petitioner contends that the children are supposed to be in her custody, therefore, the Hisar Court has the jurisdiction. He relies upon certain orders passed by the Court.

In the present case, it is established that the children are

studying in Prince Public School, Chirawa. Thus, there is evidence of the fact that the children are not residing in the territorial jurisdiction of Hisar. In the orders, cited as precedents, it has been observed that originally, the mother is presumed to be in custody. However, in those cases, there was no definite material.

5. It is not in dispute that Section 9 of the 1890 Act specifically requires that a petition under the 1890 Act is required to be filed where the children are residing.

6. Keeping in view the aforesaid facts, the petitioner has already been granted liberty to file a petition before the Court having territorial jurisdiction.

7. In view of the above, this Court does not find it appropriate to interfere in exercise of the supervisory jurisdiction. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

March 24, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No