

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

105

**TA No.186 of 2023 (O&M)
Date of decision: 20.02.2023**

Navneet Kaur

...Petitioner(s)

vs

Deepinder Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashir Gulati, Advocate for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner is for transfer of the petition bearing No.50/2022 filed by respondent-husband under Section 25 of the Guardian and Wards Act, 1890, titled "Deepinder Singh vs. Navneet Kaur" pending in the Court of Addl. Principal Judge, Family Court, Patiala to a court of competent jurisdiction at Jalandhar.

2. Respondent has filed the above petition seeking custody of the minor daughter Pairen, who is currently residing with the petitioner at Jalandhar.

3. Learned counsel for the petitioner, inter alia, submits that:

- i) that the parties solemnized marriage on 26.05.2002.
- ii) that two children were born out of the wedlock on 23.08.2007 and 30.08.2013.
- iii) that the petitioner along with minor daughter is living with her parents at Jalandhar and son is with the respondent.
- iv) that the distance between the place of residence and place of proceedings is 154 kms. (one side).
- v) that as per Section 9 of the Guardian and Wards Act, 1890, respondent has to file the petition for custody of the minor daughter where she ordinarily resides.

4. I have heard learned counsel for the petitioner.

5. The legal position in such like cases as the present one, is well established. As per Section 9 of the Guardians and Wards Act, 1890, petition for custody is required to be filed where the minor child ordinarily resides. In the present case, minor daughter is admittedly residing with petitioner at Jalandhar.

6. After going through the entire paperbook, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondent-husband has to bear the litigation expenses and in view of the above facts, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

a) The petition bearing No.50/2022 filed by respondent-husband under the Guardian and Wards Act, 1890, titled “Deepinder Singh vs. Navneet Kaur” pending in the Court of Addl. Principal Judge, Family Court, Patiala is transferred to a court of competent jurisdiction at Jalandhar.

b) The Id. District Judge, Patiala is directed to transfer complete record pertaining to the aforesaid case to District Judge, Jalandhar.

c) The parties are directed to appear before the District & Sessions Judge, Jalandhar on 17.03.2023.

d) The District Judge, Jalandhar will assign the said petition to the Court of competent jurisdiction.

7. As already noticed above, since the petition is being disposed of without issuing notice to the respondent, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Jalandhar on 17.03.2023, it is directed that a copy of this order be sent to the respondent(s) through registered post, besides sending a copy of this order to the District Judges concerned through e-mail. Petitioner through her counsel, present in the Court, is directed to ensure her appearance accordingly.

Disposed of.

20.02.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge