

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

203

**TA No.252 of 2022 (O&M)
Date of decision: 26.04.2023**

Smt. Ashok Rani and another
vs

...Petitioners

Seema

...Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Yaseen Sethi, Advocate for the petitioners.

Mr. Akhil Ahuja, Advocate for the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioners is for transfer of the petition bearing No.GW/25/2019 filed by respondent/daughter-in-law under Section 7 of the Guardians and Wards Act, 1890, titled "Seema vs. Ashok Rani" pending in the Court of Additional Principal Judge, Family Court, Nabha, District Patiala to a court of competent jurisdiction at Mansa.

2. Learned counsel for the petitioner, inter alia, submits:

- i) that the marriage between son of the petitioners and respondent was solemnized on 29.11.2012.
- ii) that two daughters were born out of the wedlock, who are in the care and custody of the petitioners at Mansa.
- iii) that husband of the respondent/son of the petitioners has expired on 07.06.2019.
- iv) that as per Section 9 of the Guardians and Wards Act, 1890, respondent has to file the petition for custody where the minor ordinarily reside.
- v) that the distance between the place of residence and place of proceedings is 90 kms. (one side)
- vi) that as per compromise (Annexure P3), minor children are residing with the petitioners.

3. I have heard learned counsel for the parties.

4. 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 of the minor children is required to be filed where the minor children ordinarily reside. In the present case, admittedly, minor children are presently residing with the petitioners at Mansa.

5. Learned counsel for the respondent is unable to dispute the aforesaid factual and legal position.

6. Accordingly, after hearing the learned counsel for the parties, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

a) The petition bearing No.GW/25/2019 filed by respondent/daughter-in-law under Section 7 of the Guardians and Wards Act, 1890, titled “Seema vs. Ashok Rani” pending in the Court of Additional Principal Judge, Family Court, Nabha, District Patiala is transferred to a court of competent jurisdiction at Mansa.

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

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Mansa on 29.05.2023.

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

7. Disposed of.

26.04.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge