

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

107

**TA No.274 of 2023(O&M)
Date of decision: 01.03.2023**

Mandeep Kaur

...Petitioner

vs

Jashandeep Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Surinder Garg, Advocate for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner is for transfer of the petition bearing No.GW-6/2022 filed by respondent-husband under Section 6 of the Hindu Minority and Guardianship Act, 1956, titled “Jashandeep Singh vs. Mandeep Kaur” pending in the Court of Principal Judge, Family Court, Fazilka to a court of competent jurisdiction at Faridkot.

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

i)that marriage between the parties was solemnized on 24.01.2021.

ii) that one son was born out of the wedlock, currently aged about 11 months.

iii) that the petitioner along with minor son is living with her parents at Faridkot.

iv) that the distance between the place of residence and place of proceedings is 100kms. (one side).

v) that the petitioner has no source of income.

vi) that the following cases are also pending between the parties at Faridkot:-

a. Complaint under the Protection of Women from Domestic Violence Act, 2005.

b. Complaint under Sections 498-A, 406, 506, 323, 324 and 34 IPC.

4. I have heard learned counsel for the petitioner.

5. Besides the fact that the law in such-like cases is overwhelmingly in favour of the wife/mother, even in the facts and circumstances of the present case, it is clear that the minor child is not even one year old. As such, it will cause great inconvenience and hardship to the petitioner to travel a distance of 100 kms to Fazilka with a minor child. Even otherwise, as per S. 9 of The Guardian and Wards Act, 1890, petition seeking custody of minor child has to be filed where the minor child is ordinarily residing. In the present case, minor child is residing with the petitioner. Moreover, respondent is already stated to be attending the two other proceedings filed by the petitioner against him at Faridkot. Accordingly, for the reasons stated hereinabove, I deem it fit to allow the present petition.

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.GW-6/2022 filed by respondent-husband under Section 6 of the Hindu Minority and Guardianship Act, 1956, titled “Jashandeep Singh vs. Mandeep Kaur” pending in the

Court of Principal Judge, Family Court, Fazilka is transferred to a court of competent jurisdiction at Faridkot.

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

c) The parties are directed to appear before the District & Sessions Judge, Faridkot on 10.04.2023.

d) The District Judge, Faridkot 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, Faridkot on 10.04.2023, 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.

01.03.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge