

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

103

**TA No.307 of 2023 (O&M)
Date of decision: 14.03.2023**

Ravinder Kaur

...Petitioner

Vs

Gurpreet Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vikas Cuccria, Advocate for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner is for transfer of petition bearing No.GW/11/2022 filed by respondent-husband under Section 25 of the Guardians and Wards Act, 1890, titled 'Gurpreet Singh vs. Ravinder Kaur' pending in the Court of Additional Principal Judge, Family Court, Camp Court, Batala, to a court of competent jurisdiction at Amritsar (Family Court, Ajnala).

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

i) that the parties solemnized marriage in the year 2016.

ii) that one son was born out of the wedlock on 27.11.2019.

iii) that the petitioner along with minor son is living in her parental home at Amritsar since January, 2021.

iv) that as per Section 9 of the Guardians and Wards Act, 1890, respondent has to file the petition for custody where the minor resides.

3. I have heard learned counsel for the petitioner.

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 is required to be filed where the minor child

ordinarily resides. In the present case, minor son is admittedly residing with petitioner at Amritsar.

5. 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/11/2022 filed by respondent-husband under Section 25 of the Guardians and Wards Act, 1890, titled 'Gurpreet Singh vs. Ravinder Kaur' pending in the Court of Additional Principal Judge, Family Court, Camp Court, Batala, is transferred to a court of competent jurisdiction at Amritsar (Family Court, Ajnala).

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

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

d) The District Judge, Amritsar will assign the said petition to the Court of competent jurisdiction at Family Court, Ajnala.

6. 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, Amritsar 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.

14.03.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge