

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

2023:PHHC:060067

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TA No.527 of 2023 (O&M)
Date of decision: 27.04.2023

Navita**...Petitioner(s)****vs****Dinesh Selwal****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jasjit Singh, 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/34/2022 filed by respondent-husband under Section 25 of the Guardians and Wards Act, 1890, titled “Dinesh Selwal vs. Navita” pending in the Court of District and Sessions Court, Panchkula to a court of competent jurisdiction at Faridkot.

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

- i) that the parties solemnized marriage on 23.11.2015.
- ii) that one daughter was born out of the wedlock.
- iii) that the petitioner along with minor daughter is living in Faridkot.
- iv) that the distance between the place of residence and place of proceedings is 240 kms. (one side).
- v) that as per Section 9 of the Guardians and Wards Act, 1890, respondent has to file the petition for custody of the minor daughter where the child ordinarily resides.
- vi) that the petitioner has no source of income.
- vii) that the following cases are also pending between the parties at Faridkot:-
 - a. Petition under the Protection of Women from Domestic Violence Act, 2005.
 - b. Petition under Section 125 Cr.P.C.

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 daughter is admittedly residing with petitioner at Faridkot.

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/34/2022 filed by respondent-husband under Section 25 of the Guardians and Wards Act, 1890, titled “Dinesh Selwal vs. Navita” pending in the Court of District and Sessions Court, Panchkula is transferred to a court of competent jurisdiction at Faridkot.

b) The Id. District Judge, Panchkula 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 29.05.2023.

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 29.05.2023, 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.

27.04.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge