

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

107

**Transfer Application No.600 of 2023
Date of decision :-10.05.2023**

Chandan Goyal**.....Petitioner****Versus****Niti Bansal****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Naresh Jain, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

1. Prayer in this petition filed by petitioner-husband is for transfer of the petition bearing No.GW/52/2023 filed by respondent-wife under Sections 6 and 7 of the Hindu Minority and Guardianship Act, 1956 and Sections 8, 12 and 25 of the Guardians and Wards Act, 1890 (hereinafter referred as 'the Act'), titled 'Niti Bansal vs. Chandan Goyal' pending in the Court of Principal Judge, Family Court, Ludhiana to a Court of competent jurisdiction at Sirsa.

2. Respondent-wife has filed the above petition seeking custody of the minor son Ayush Goyal, who is currently residing with the petitioner-husband at Sirsa.

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

- i) that the parties solemnized marriage on 23.7.2015.
- ii) that one male child was born out of the wedlock on 27.5.2018.
- iii) that the petitioner along with minor son is living with his old aged parents at Sirsa.

- iv) that the distance between the place of residence and place of proceedings is 200 kms. (one side).
- v) that as per Section 9 of the Act, respondent has to file the petition for custody of the minor son where he ordinarily resides.
- vi) That the minor child is presently studying in UKG Class at Mandi Dabwali, District Sirsa.
- vii) That the respondent-wife is presently working as Scrum Master in a Multi-National Company, namely, 'Amdocs Development Centre, Gurgaon' and her annual income is more than Rs.20 lakhs but she is contributing nothing towards the minor child.
- viii) That the respondent-wife after separation from the petitioner-husband and the minor child since March 2022 filed the petition for custody of minor child in March 2023 i.e. after one year, just to harass the petitioner-husband and the minor child.

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 Act, 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 Sirsa.

6. After going through the entire paper-book, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-husband will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondent-wife 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/52/2023 filed by respondent-wife under the Act, titled 'Niti Bansal vs. Chandan Goyal' pending in the Court of learned Principal Judge, Family Court, Ludhiana is transferred to a Court of competent jurisdiction at Sirsa.
- b) The ld. District Judge, Ludhiana is directed to transfer complete record pertaining to the aforesaid case to District Judge, Sirsa.
- c) The parties are directed to appear before the District & Sessions Judge, Sirsa on 31.5.2023.
- d) The District Judge, Sirsa 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, Sirsa on 31.5.2023, 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 his counsel, present in the Court, is directed to ensure his appearance accordingly.

Disposed of.

May 10, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No