

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

113

Transfer Application No.615 of 2023

Date of decision :-11.05.2023

Anuti

.....Petitioner

Versus

Shankar Gupta

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. V.K. Gupta, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by the respondent-husband under Sections 12 and 25 of the Guardians and Wards Act, 1890 (hereinafter called 'the Act'), titled as "Shankar Gupta vs. Anuti" pending in the Court of learned Civil Judge (Sr. Divn.), Chandigarh to a Court of competent jurisdiction at Yamuna Nagar at Jagadhri.

2. Learned counsel for the petitioner has contended :-

- i) that the parties were married on 21.2.2007 according to Hindu rites and rituals.
- ii) that two female children were born out of this wedlock and both minors are in the care and custody of the respondent.
- iii) that the petitioner-wife is living separately from the respondent-husband and living with her parents at their mercy at Yamuna Nagar at Jagadhri.

- iv) that the petitioner is unemployed, having no source of income and totally dependent upon her parents and the respondent-husband, who is presently practicing advocate and earning handsome amount, is not paying anything to her towards maintenance.
 - v) that the proceedings arising out of petitions (1) under the DV Act and (2) FIR No.626 dated 16.5.2018, under Sections 498-A, 323 and 506 IPC, registered at Police Station Jagadhri City, filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Yamuna Nagar at Jagadhri.
 - vi) that earlier the respondent-husband has filed a petition under Section 13 of the Hindu Marriage Act, 1955 for divorce, bearing No.HMA/65/2022, titled as 'Shankar Gupta vs. Anuti', which was pending before the Court of learned Additional District Judge, Chandigarh, but the same has been transferred to the Court at Yamuna Nagar at Jagadhri vide order dated 23.3.2023 passed by this Court in TA-313-2022.
 - vii) that the distance between place of residence of the petitioner-wife i.e. Yamuna Nagar at Jagadhri and the place of proceedings under Sections 12 and 25 of the Act filed by the respondent-husband, pending before the Court of the Civil Judge (Sr. Divn.), Chandigarh, is about 103 kilometers on one side.
3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
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 Guardians and Wards Act, 1890, petition for custody is required to be filed where the minor child

ordinarily resides. In the present case, minor children are admittedly residing with the respondent at Chandigarh.

6. Accordingly, in view of the facts as noted above, this petition stands **dismissed**. Pending applications, if any, stand disposed of.

Pending application(s), if any, stands disposed of.

May 11, 2023

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No