

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

205

**TA No.611 of 2022 (O&M)
Date of decision: 21.02.2023**

Jai Bhagwan

...Petitioner(s)

vs

Smt. Rekha

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sumit Sangwan, Advocate for the petitioner.

Mr. MS Yadav, Advocate for the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-husband is for transfer of the petition bearing No.GW/30/2022 filed by respondent-wife under Section 25 of the Guardians and Wards Act, 1890, titled "Rekha wife of Jai Bhagwan vs. Jai Bhagwan Dabla son of Dhanpat" pending in the Court of Additional Principal Judge, Family Court, Rohtak to a court of competent jurisdiction at Charkhi Dadri, District Bhiwani.

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

- i) that the parties solemnized marriage on 29.03.2008.
- ii) that two sons were born out of the wedlock on 04.10.2010 and 02.05.2015, who are in the care and custody of the petitioner and studying in Charkhi Dadri.
- iii) that the petitioner along with his minor children is living in Charkhi Dadri.
- iv) that as per Section 9 of the Guardian and Wards Act, 1890, respondent has to file the petition for custody where the minor ordinarily reside.
- v) that the distance between the place of residence and place of proceedings is 100 kms. (one side)

3. Learned counsel for the respondent is unable to dispute the aforesaid factual and legal position.

4. I have heard learned counsel for the parties.

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 of the minor children is required to be filed where the minor children ordinarily reside. In the present case, admittedly, minor children are presently residing with the petitioner at Charkhi Dadri.

6. After hearing the learned counsel for the parties, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

a) The petition bearing No.GW/30/2022 filed by respondent-wife under Section 25 of the Guardians and Wards Act, 1890, titled “Rekha wife of Jai Bhagwan vs. Jai Bhagwan Dabla son of Dhanpat” pending in the Court of Additional Principal Judge, Family Court, Rohtak is transferred to a court of competent jurisdiction at Charkhi Dadri, District Bhiwani.

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

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Bhiwani on 17.03.2023.

d) The District Judge, Bhiwani will assign the said petition to the Court of competent jurisdiction.

7. Disposed of.

21.02.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge