

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209

CR-2623-2021 (O&M)

DATE OF DECISION: 31.01.2023

PARTAP SINGH AND ANOTHER

... Petitioner (s)

Versus

KAVITA

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sandeep Goyat, Advocate
for the petitioners.

Mr. Dushyant Saharan, Advocate for the respondent.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 04.10.2021 (Annexure P-4) whereby his application under Section 9 of the Guardian and Wards Act read with Order 7 Rule 11 of the Code of Civil Procedure (for short- 'CPC') has been dismissed.

Learned counsel for the petitioners submits that the petitioners are the grandparents of the minor child who is residing with them for several years. The respondent, who is the mother of the minor child, has remarried and is residing at Hisar. She has filed the petition for custody of the child at Hisar which would not have territorial jurisdiction as the child is residing with the petitioners at Sirsa.

Learned counsel for the respondent submits that the child had been residing with the mother at Hisar and had been forcibly taken away by the petitioners and therefore, she had preferred petition under Section 25 of the Guardian and Wards Act before the Family Court at Hisar.

Heard.

The petitioners are the grandparents of the child. The father of the child has unfortunately expired and the dispute is with regard to the custody of the minor child. The child is stated to have been residing with the mother till 31.12.2020 whereafter the custody of the child had been handed over to the petitioners by the mother on their assurance that he would be returned back to her after 2-3 days.

It is, thus, apparent that the child had been residing with the mother at Hisar and the custody had been given to the grandparents only for some time but they continued to retain it even thereafter. The child was residing with the mother at Hisar and therefore, the Family Court at Hisar would have territorial jurisdiction to decide the petition of the mother for custody of the child. Therefore, the application filed by the petitioners has rightly been dismissed by the Family Court.

Consequently, I do not find any merit in this petition which stands dismissed. However, the family Court is requested to make efforts to resolve the dispute over custody of the minor child between the mother and paternal grandparents amicably through mediation before adjudicating the same on merits.

(ANUPINDER SINGH GREWAL)
JUDGE

31.01.2023

SwamjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No