

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

208-2

TA No.1399 of 2022 (O&M)

Date of decision: 09.02.2023

Sanjeev Kumar

...Petitioner(s)

vs

Inderpreet Kaur

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. MS Kathuria, Advocate for the petitioner.
Mr. Harshit Singla, 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-48 of 2021 filed by respondent-wife under Section 25 of the Guardian and Wards Act, 1890, titled “Inderpreet Kaur vs. Sanjeev Kumar” pending in the Court of Principal Judge, Family Court, Patiala to a court of competent jurisdiction at Kurukshetra.

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

i) that marriage between the parties was solemnized on 15.05.2009.

ii) that one daughter was born out of the wedlock on 20.07.2014, who is presently living with the petitioner at Kurukshetra and studying there.

iii) that the distance between place of residence of petitioner and place of proceedings is 85 Kms. (one side).

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 resides.

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 is required to be filed where the minor child ordinarily resides. In the present case, minor child is admittedly residing with petitioner at Kurukshetra.

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-48 of 2021 filed by respondent wife under Section 25 of the Guardian and Wards Act, 1890, titled “Inderpreet Kaur vs. Sanjeev Kumar” pending in the Court of Principal Judge, Family Court, Patiala is transferred to a court of competent jurisdiction at Kurukshetra.

b) The ld. District Judge, Patiala is directed to transfer complete record pertaining to the aforesaid case to District Judge, Kurukshetra.

c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, Kurukshetra on 01.03.2023.

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

7. The concerned Court at Kurukshetra will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

8. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.

Disposed of.

09.02.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge