

127.

2023:PHHC:150773

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7128-2023

Date of decision: 28.11.2023

AMANDEEP KAUR

.... Petitioner

Versus

GENERAL PUBLIC AND ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. S.K. Choudhary, Advocate, for the petitioner.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for issuance of direction to the Family Court at Pathankot in case titled as *Amandeep Kaur Versus General Public and another* to consider the application (Annexure P-6) moved by the petitioner for recording and tendering her evidence by way of Power of Attorney i.e. through her father, as it has been adjourned by passing order to put up for the date already fixed in the main case.

2. Brief facts, as culled out from the petition, are that the petitioner-wife was got married with respondent No.2-Gagandeep Singh. Out of said wedlock, a girl child, namely, Ibaadat Kaur was born on 02.11.2021. Since there was matrimonial discord, the petitioner along with her daughter started residing with her parents. Petitioner filed a petition under Section 7 of the Guardian and Wards Act to declare her as legal guardian being biological mother of minor daughter Ibaadat. Respondent No.2 left for USA on 29.05.2022 without any intimation to the petitioner. In August, 2023, petitioner went to Canada for higher studies and for the betterment of her

minor daughter. She executed a power of attorney in favour of her father. Respondent No.1 was already proceeded against ex-parte on 13.05.2023 and respondent No.2 was also proceeded against ex-parte on 28.08.2023. The petitioner also applied online for issuance of passport to her daughter, but the passport authorities raised an objection for the certificate of declaration under the Guardian and Wards Act. Thereafter, the petitioner moved an application (Annexure P-6) for preponing the main case and for recording and tendering the evidence of the petitioner by way of power of attorney i.e. her father. But the trial Court, without passing any order on the application, simply adjourned the application for the date fixed in the main case.

3. Learned counsel for the petitioner submits that an application was moved by the petitioner that permission be granted to her to lead evidence through her power of attorney i.e. father as she had gone to Canada and due to financial constraint, she cannot come back to India, but the court below, without even taking into consideration the averments in the application and the necessity, had passed the order, *Be put up with file on date fix*. Now the main case is fixed for 21.12.2023. He further submits that said application be disposed of prior to 21.12.2023.

4. Having heard learned counsel for the petitioner and in view of the averments made in the petition, the learned trial Court is directed to decide the application (Annexure P-6) prior to 21.12.2023.

5. Petition stands disposed of accordingly.

November 28, 2023

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

**(GURBIR SINGH)
JUDGE**