

TA-390-2023

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

Sr. No.104

TA-390-2023

Date of Decision: 24.10.2024

SUKHDEV SINGH

....Applicant

Versus

BALWINDER SINGH SAINI

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sunil Agnihotri, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J. (Oral)

The applicant has filed the present application for seeking transfer of the guardianship petition i.e. GW/150/2019, titled '*Balwinder Singh Saini Vs. Sukhdev Singh*', filed by the respondent-Balwinder Singh Saini, who is father of the minor child. The said petition is pending in the Family Court, Jagadhri and the applicant seeks transfer of the same to the Court of competent jurisdiction at Mukerian, District Hoshiarpur.

There is no representation on behalf of the respondent. From perusal of the previous orders, it is evident that the respondent has not made appearance, despite service. As such, he is proceeded against *ex parte*.

The counsel for the applicant heard.

It is submitted by the counsel for the applicant that the marriage had taken place, between the daughter of the applicant, namely, Parminder Kaur and the respondent-Balwinder Singh Saini, on 02.09.2014 and one child, namely, Gurnoor Saini, was born from the said wedlock on

13.10.2015, who is presently in the care and custody of the applicant. Also, it is submitted that the daughter of the applicant had died on 04.10.2018, while leaving behind 3 year old son. However, it is submitted that it was only on account of the maltreatment/harassment caused to the daughter of the applicant, at the instance of the respondent and his family members, she had died. Also, it is submitted that even though, FIR was got registered on account of the death of Parminder Kaur, but however, in connivance of the prosecution, the respondent was acquitted in the same. Even, the respondent has solemnized the second marriage. However, he has filed the guardianship petition in the Courts at Jagadhri, for seeking custody of the son, who is about 7 years old. The minor child, as per the recitals of the petition, copy whereof is Annexure A-1, is in the custody of the applicant. Though, it is stated to be a wrongful custody, but it is a matter of adjudication. In the given circumstances, the applicant has filed the present application for seeking transfer of the guardianship petition, while taking into consideration the fact that the child is residing with the applicant, who is school-going and the applicant is also an aged person. Thus, it is difficult for the applicant to commute a distance of about 325 kilometres, to defend the guardianship petition.

In view of the submissions aforesaid, it is pertinent to mention that the respondent-Balwinder Singh Saini, has not made appearance in the present application, despite service. Considering the same and also taking into consideration the distance between Jagadhri and Mukerian to be about 325 kilometres, more particularly, considering the age of the applicant, the application is accepted and the guardianship petition i.e. GW/150/2019, titled '*Balwinder Singh Saini Vs. Sukhdev Singh*', filed by the respondent,

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stands transferred from the Family Court, Jagadhri, to the Court of competent jurisdiction at Mukerian, District Hoshiarpur. The requisite record of the aforesaid case be sent by the Family Court, Jagadhri, to the District and Sessions Judge, Hoshiarpur.

Learned District and Sessions Judge, Hoshiarpur, shall assign the said petition to the Family Court (Camp Court) Mukerian. Even, the parties are directed to appear before the Family Court (Camp Court) Mukerian, within a period of one month from today onwards.

24.10.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No