



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

Sr. No.203**TA-84-2025****Date of Decision: 11.09.2025****SHIMON MASSEY****....Applicant****Versus****MEERA****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Shehbaz Thind, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J. (Oral)

Perusal of the paperbook reveals that on the last date of hearing, despite service, the respondent did not make appearance. Even today, he has not made appearance. As such, the respondent is proceeded against *ex parte*.

The counsel for the applicant heard.

The applicant/father has filed the present application for seeking transfer of the petition under Section 25 of the Guardian and Wards Act i.e. GW/28/2023, titled '*Shimon Massey v/s Meera*', filed by him, pending in the Family Court, Ludhiana and he seeks transfer of the same to the Court of competent jurisdiction at Malerkotla.

It is submitted by the counsel for the applicant that there is matrimonial dispute between the applicant and the respondent/wife and two children born from their wedlock, are in the care and custody of the respondent, who are residing at Mandi Ahmedgarh, Malerkotla. It is pointed



out that the Guardianship petition has been filed at Ludhiana, which is the place of residence of the applicant, whereas the children are residing in Mandi Ahmedgarh, District Malerkotla. On query, it has been disclosed that in the guardianship petition, pending in the courts at Ludhiana, the respondent had already been proceeded against *ex parte* and even entire evidence has been recorded and now the case is fixed for arguments.

On further query, it has been submitted that the respondent had never joined the proceedings, before the guardianship Court and thereafter, the entire *ex parte* evidence, was recorded. Considering the same, the court has questioned the territorial jurisdiction of the courts at Ludhiana.

Considering the aforesaid factual position, it is pertinent to mention that it is a settled position of law that as per Section 21 of CPC, no objection relating to the place of suing, shall be taken by the court, where the matter is pending at first instance, at the earliest possible opportunity and in all cases it should be taken where issues are settled, at or before such settlement and unless there has been consequent failure of justice.

Further, in the case in hand, the respondent had never made appearance. But anyhow, the entire evidence has been recorded by the court and at this stage, the court at its own, pondered for the jurisdictional question. Rather, transfer of the case, at this stage, shall cause undue delay, *vis-a-vis*, disposal of the case.

Considering the stage of the case and there being no other party on the other side, to raise question with regard to the jurisdiction, it shall be appropriate if the court concerned considers the provision of Section 21 of CPC and pass an appropriate order, with regard to the territorial jurisdiction of the place, where the petition, as such, has been filed and consider the



circumstances, as to where there is consequential failure of justice.

In view of the aforesaid, no case is made out for allowing the transfer application.

Hence, the transfer application is hereby disposed of.

But any how, a liberty is given to the applicant to make appearance before the court concerned and file appropriate application and upon filing of such application, the court concerned, while considering the provision of Section 21 of CPC, taking into account the aspect of failure of justice, being there or not, shall pass a specific order, with regard to the territorial jurisdiction.

11.09.2025

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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No