



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

FAO-551-2024 (O&M)
Date of decision: 21.05.2025

RAJAN VERMA

..Appellant

Versus

NEHA SHOOR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Ritam Aggarwal, Advocate
for the appellant.

Mr. Rahul Sharma, Advocate
for respondent.

* * * *

ANIL KSHETARPAL, J. (Oral)

1. This first appeal has been filed by the father of the children and former husband of the respondent against the impugned order dated 18.01.2024, wherein, the application filed by the respondent-wife seeking permission to relocate her children to Australia has been allowed.

2. The marriage between appellant and respondent was dissolved by a decree of divorce passed by the Court in the year 2020. The following relevant terms of the settlement were foundation of the decree of divorce:-

“(e) That the party No.2 shall have the sold and legal custody of both the sons namely Rajkunwar Verma and Samraat Verma and shall be in the sole custody of the party No.2 and party No.1 will not claim any custody of the children from the party No.2. However, party No.1 and his parents shall have the right to meet the children twice in a month in the school premises or outside the house.

(i) Party no.2 and children shall have no right of maintenance or any alimony for the past, present and



future from party no.1 and have no right in property of father and grandfather or grandmother of the children.”

3. Para No.8, 10 and 11 of a joint petition filed under Section 26 of the Hindu Marriage Act, 1955 (in short ‘1955 Act’), read as under:-

“8) That in addition to the grant of the decree of divorce, it is imperative that all matters as to the custody, education, etc. of the children be also adjudicated upon by the Hon’ble court and the sole custody of the children be ordered to be granted to the petitioner No.1.

10) That the children are of a very tender age and thus, also the welfare of the child lies with the petitioner No.1.

11) That it is in the better interest of the children that their complete and absolute custody be granted to the petitioner No.1 with all rights to take decision with respect to the education, place of abode and well-being of minor children.”

4. Subsequently, the respondent re-married with an individual, who is settled in Australia. She went to Australia while leaving her children with their maternal grand-parents. Subsequently, in June 2022, she filed an application under Section 26 of the ‘1955 Act’ for permission to relocate the minor children to New South Wales, Australia. After a prolonged litigation, the Family Court passed the following order:-

“17. Accordingly, instant application filed by the petitioner-mother seeking relocation of the minor children to Australia and modification of terms of settlement deed dated 15.02.2020, is hereby allowed. Petitioner-mother is permitted to relocate with both the minor children, namely, Raj Kunwar Verma and Samraat Verma to Australia, subject to the following conditions:

(a) The respondent would be at liberty to interact with both the children through video calls or on any suitable video-conferencing platform for one hour, on every Saturday and Sunday.

(b) The petitioner will ensure that the presence of the children in Jalandhar, once a year during the course of their vacations, for a period of at least three weeks unless prevented by travel restrictions imposed by the government of either country. During this period, the respondent will be entitled



to have exclusive custody of the children, for at-least one week.

(c) If the respondent travels to Australia, he would be entitled to meet the children over the weekends subject to the mutual convenience of the parties and the children. However, if his trip is during the vacations of the children, he would be entitled to have custody of the children for the number of days, to be mutually decided by the parties, which days will then be excluded from the period of one week, as directed in clause (b) herein-above.

(d) The petitioner will, within 15 days, file an undertaking before this Court to abide by the conditions imposed vide this order. The petitioner will, in her undertaking also provide that she will not relocate with the children to any other country without leave of this Court. This would, however, not preclude the petitioner from taking the minor children for holidays outside Australia. 18. The application in hand stands accordingly allowed, in the terms of aforesaid conditions. The requisite undertaking, in the form of duly sworn in affidavit, be furnished by petitioner within 15 days.”

5. This order was passed by Family Court after interacting with the children and after recording their statement. It is pertinent to note that Rajkunwar Verma will turn 18 years on 26.06.2025, whereas, Samraat Verma is nearly 12 years old.

6. The appellant assails the correctness of the order passed by the Family Court on 18.01.2024 on following grounds:-

- i. The appellant's petition under Section 6 of the Guardians and Wards Act, 1890 (in short '1890 Act') is pending.
- ii. The Court has failed to consider that welfare of the children, which shall be of paramount consideration while deciding these applications.



iii. The respondent is financially dependant on her second husband, whereas, the appellant has sufficient means to support the children. He has immovable property worth Rs.174 crores and movable assets of Rs.4,40,26,660/-.

7. Per contra, learned counsel for respondent submits that while passing the impugned order, the Court has taken all aspects into consideration. He submits that with regard to elder son namely Rajkunwar Verma, petition under Section 6 would be rendered infructuous in June, 2025. He further submits that the children have always resided with the mother and the appellant while filing reply to the application under Section 23 of the Domestic Violence Act, 2005, has disclosed that his income is only Rs.15,000/- per month and he has no other income.

8. This Court has considered the submissions and analyzed the arguments of learned counsel for the parties.

9. It is evident that the Family Court has permitted the appellant and his parents to interact with both the children through video calls or any suitable video conferencing platform for one hour on every Saturday and Sunday. Various other provisions have also been made by the Court after considering all aspects of the matter. The appellant has been granted liberty to travel to Australia in order to meet his children every weekend.

10. As already noticed, the Family Court has passed the impugned order after interacting with the children and taking into consideration their welfare. The pendency of petition under Section 6 of the '1890 Act' would remain unaffected because the impugned order was passed only to modify the previous arrangement of visitation rights.



11. Moreover, the appellant has failed to show that he ever positively contributed to the welfare of the children after the respondent and children started living separately in the year 2017. In other words, during the period of last 8 years, but for filing the petitions, the appellant has not made any positive contribution towards the welfare of the children. Moreover, the terms of settlement itself prove that the appellant not only disinherited his children from his property but also from the property of his father. Additionally, it would not be appropriate to separate the siblings because elder son in any case will be free to migrate to any part of the world, the moment he turns 18 years old.

12. Hence, no ground to interfere is made out.

13. Dismissed.

14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(VIKAS SURI)
JUDGE

May 21st, 2025
Ayub

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No