



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

Sr. No.211

**TA-1090-2023
Date of Decision: 24.02.2025**

RAJNI SHARMA

...Applicant

Versus

AMIT KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Munish Puri, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-mother has filed the present application for seeking transfer of the petition under Section 25 of the Guardians and Wards Act i.e. GW/72/2023, titled '*Amit Kumar Vs. Rajni Sharma*', filed by the respondent-father (husband of the applicant), which is pending in the Family Court Amritsar and she seeks transfer of the same to the Court of competent jurisdiction at Pathankot.

In pursuance of the notice issued, respondent did not make appearance. Even today, none has made appearance on his behalf. As such, the respondent is proceeded against *ex parte*.

Learned counsel for the applicant heard.

It is submitted by the counsel for the applicant that earlier, both



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the applicant, as well as the respondent, were divorcee and their respective second marriage was performed with each other. One son, namely, Ansh, was born from the said wedlock. On account of the matrimonial discord, the parties are residing separate, since the year 2018 and the son, namely, Ansh is in the care and custody of the applicant, since then. Also, it is submitted that the divorce petition has been filed by the applicant, which is pending in the Courts at Pathankot and the respondent is making appearance in the same. It is only as a counter-blast to the divorce petition, that the guardianship petition has been filed by the respondent. Rather, it is submitted that the said petition is not maintainable, as it ought not to have been filed at Amritsar, as the son is stated to be residing with the applicant at Pathankot, for the last about six years.

Even though, the question of jurisdiction has been raised by the applicant, but however, this Court outrightly cannot shut the question of jurisdiction, without considering the claim of the respondent. But anyhow, the child born from the wedlock, is stated to be residing with the applicant. Considering the same and also considering the position of law about preference to be given to the convenience of the wife in the transfer applications relating to the matrimonial dispute, the transfer application is allowed and the petition under Section 25 of the Guardians and Wards Act i.e. GW/72/2023, titled '*Amit Kumar Vs. Rajni Sharma*', filed by the respondent-father (husband of the applicant), stands transferred from the Family Court, Amritsar, to the Court of competent jurisdiction at Pathankot. The requisite record of the aforesaid case be sent by the Family Court, Amritsar, to the District and Sessions Judge, Pathankot.



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

24.02.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No