



TA-331-2024

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

Sr. No.108

TA-331-2024

Date of Decision: 16.05.2025

BALJIT KAUR**....Applicant****Versus****GURWINDER SINGH****....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**Present:- Mr. Dinesh Nagar, Advocate
for the applicant.Mr. N.S. Dhaliwal, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-mother has filed the present application for seeking transfer of the petition under Sections 8/10 of the the Guardians and Wards Act i.e. GW/41/2022, titled '*Gurwinder Singh Vs. Baljit Kaur*', filed by the respondent-father (husband of the applicant), which is pending in the Family Court, Moga and she seeks transfer of the same to the Court of competent jurisdiction at SBS Nagar.

Upon notice, the respondent made appearance through counsel and filed reply.

The counsel for the parties heard.



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At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 09.12.2022. One son born from the said wedlock on 02.09.2021, is in the care and custody of the respondent. However, on account of the matrimonial dispute, the parties are residing separate. The applicant had got lodged an FIR against the respondent in SBS Nagar. For quashing of the said FIR, CRM-M-30390-2022 was filed at the instance of the respondent. During the pendency of the said petition, compromise was effected between the parties, on the basis whereof, the FIR was quashed. Also, it is submitted that soon after the quashing of the FIR, the behaviour of the respondent was bad, as a result whereof, again the parties started residing separate. Now, for revival of the main petition aforesaid, the applicant had filed CRM-1781-2023 and notice of motion has been issued in the same. The said application is now fixed for 28.05.2025.

On query by the Court, it is submitted that the applicant is a home-maker and as such, has no source of earning. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 130 kilometres, to defend the guardianship petition.

On the other hand, the counsel for the respondent, while making reference to the reply filed, submits that in fact, the applicant is the wrong-doer. The child in question is residing with the applicant and is studying in the school at Moga. On query by the Court, it is disclosed that the parents of the respondent are also residing with him at Moga. It is submitted that in case the transfer application is allowed, it shall be difficult for the respondent also, to pursue the guardianship petition.



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In view of the rival submissions, it is pertinent to mention that generally, the Courts give preference to the convenience of wife, in case of transfer applications relating to the matrimonial disputes, or to the offshoot cases of the dispute. It is further pertinent to mention that in the case in hand, the applicant is a home-maker and she is not having any source of earning. Also, the respondent is living with his parents, who can take care of the child, in case of the respondent being away for pursuing the litigation.

In view of the aforesaid fact situation and considering the distance between the two places, the transfer application is allowed and the petition under Sections 8/10 of the the Guardians and Wards Act i.e. GW/41/2022, titled '*Gurwinder Singh Vs. Baljit Kaur*', filed by the respondent-father (husband of the applicant), stands transferred from the Family Court, Moga, to the Court of competent jurisdiction at SBS Nagar. The requisite record of the aforesaid case be sent by the Family Court, Moga, to the District and Sessions Judge, SBS Nagar.

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

16.05.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No