IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.108

TA-1004-2023
Date of Decision: 22.04.2025

AARTI AND ANOTHER

....Applicants

Versus

RAMPAL AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Amandeep Singh, Advocate for
Mr. C.S.Singhal, Advocate
for the applicants.

Ms. Nidhi Dahiya, Advocate
for the respondents.

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ARCHANA PURI, J. (Oral)

The applicants have filed the present application for seeking transfer of the petition under Section 12 of the Guardian and Wards Act i.e. GW/52/2021 titled "Rampal & Another v/s Aarti and Another", filed by the paternal grandparents of the child, which is pending in Family Court, Karnal and they seek transfer of the same to the court of competent jurisdiction at Panchkula.

In pursuance of notice issued, the respondents made appearance through counsel and filed the reply.

Counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that applicant No.1-Aarti, got married to Satish Kumar s/o Rampal, who unfortunately died on 13.03.2017. One son born from the said

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wedlock on 21.03.2016, is presently in the care and custody of applicant No.1. The applicant No.1-Aarti, had solemnized second marriage with Gourav, applicant No.2 and both of them are happily taking care of the minor child, namely, Moksh. However, the respondents have filed the petition to secure the custody of the minor child at Karnal, though it is not maintainable, on account of the child residing at Panchkula. Otherwise also, it is submitted that the child is studying in the school at Panchkula and it shall be difficult for the applicant to pursue the guardianship petition, if remained pending at Karnal.

On the contrary, counsel for the respondent while making reference to the reply filed, submits that the custody of the child was taken by applicant No.1 in a mischievous manner on the pretext of requirement for widow pension. It is further submitted that with the intervention of the Gram Panchayat, compromise was effected between the parties and it was decided that the child shall remain with the respondents, who are the paternal grand parents. However, after taking the custody of the child on the pretext of widow pension, the child has not returned back to the custody of the grand parents, on which account, they have filed the Guardianship Petition.

In view of the submissions made aforesaid, it is pertinent to mention that the father, who is the natural guardian of the child has since died and the applicant No.1 has performed the second marriage with applicant No.2 and there are no assertions made with regard to the child being maltreated, humiliated or harassed, on account of the said second marriage.

Even though, counsel for the respondent submitted that with the

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intervention of the Gram Panchayat, the matter was compromised and it was agreed that the minor son, Moksh, shall remain in the custody of the paternal grand parents, but however, no material is coming forth, to so substantiate this version of arrival of compromise, *vis-a-vis*, custody of the minor child.

In view of the aforesaid fact situation and also considering the fact that generally the courts give preference to the convenience of the wife/mother, in the transfer applications, relating to the matrimonial disputes, more particularly, when she is not having any source of income and is already having the custody of the minor child, who is school going and considering the distance between the two places to be 125 kms, the transfer application is allowed and the petition under Section 12 of the Guardian and Wards Act i.e. GW/52/2021 titled "Rampal & Another v/s Aarti and Another", filed by the paternal grandparents of the child, stands transferred from the Family Court, Karnal to the Court of competent jurisdiction at Panchkula. The requisite record of the aforesaid case be sent by the Family Court, Karnal to the District and Sessions Judge, Panchkula.

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

(ARCHANA PURI)
JUDGE

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No

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