



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1808-2024 (O&M)

Date of Decision: September 22, 2025

HITESH KUMARPetitioner
Versus
JYOTI SHARMARespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Atul Goyal, Advocate for the petitioner.

Mr. Kunal Dawar, Advocate and
Ms. Shruti Mandhotra, Advocate for the respondent.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 16.02.2022 passed by the Court of learned Principal Judge, Family Court, Faridabad whereby, an application under Order 7 Rule 11 CPC with a prayer for rejection of petition filed under Section 25 of the Guardians and Wards Act, 1890 (hereinafter referred to as '1890 Act'), at the instance of respondent-wife was dismissed.

Briefly stating, the respondent-wife filed a petition under Section 25 of 1890 Act for the custody of minor son namely, Master Bavyan Singla. The petition was preferred before the Principal Judge, Family Court, Faridabad while stating that at the time of filing of the petition, the mother who happens to be the natural guardian of the minor child was residing at Faridabad.

Upon appearance, the petitioner-husband filed an application under Order 7 Rule 11 CPC with a prayer for rejection of the petition preferred under Section 25 of Guardians and Wards Act, 1870

at the instance of respondent-wife stating that since the minor son Bavyan Singh was residing at Kondapur (Telangana) along with his father i.e. the petitioner and thus, the said petition was required to be filed at Kondapur. The aforesaid application was opposed at the instance of respondent-mother. Learned Court below vide its order dated 16.02.2022 rejected the prayer made on behalf of the petitioner. Aggrieved of the same, the present revision petition has been preferred.

I have heard learned counsel for the parties and gone through the paper-book.

In the facts and circumstances of the present case wherein, the minor son namely Bavyan Singla is residing with the petitioner-father at Kondapur (Telangana), in terms of latest decision passed by the Division Bench of this Court on 27.08.2024 in **FAO-2294-2024** titled as “**Rajesh Vs. Komal**”; in terms of Section 9 of 1890 Act, the present petition needs to be preferred within the territorial jurisdiction of the Court where the minor is residing. Relevant Para 15 of the aforesaid judgment is extracted hereunder:-

“A conjoint reading of all the above referred to statutory provisions shows that the intention of the legislature in Section 9 with respect to the jurisdiction is that application for the guardianship of the person of the minor shall lie to the District Court having jurisdiction in the place where the minor is actually and physically residing and not as per the proviso to Section 6(a) of Hindu Minority and Guardians Act, 1956.”

In view of the aforesaid, the present petition is allowed and the impugned order dated 16.02.2022 passed by learned Principal Judge, Family Court, Faridabad is set aside. The application preferred

at the instance of petitioner-husband for rejection of the petition at the instance of respondent-wife is allowed. However, respondent-wife shall be at liberty to approach the Court of competent territorial jurisdiction for seeking custody of the minor son.

Pending application(s), if any, shall also stand disposed of.

22.09.2025
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No