

## Rajinder Kaur Vs Gulzar Singh and another

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Aug. 6, 2013

**Acts Referred:** Guardians and Wards Act, 1890 " Section 25, 7

**Hon'ble Judges:** S.S. Saron, J; S.P. Bangarh, J

**Bench:** Division Bench

**Advocate:** Amanpreet Singh, for Mr. S.S. Salar, for the Appellant;

**Final Decision:** Dismissed

### Judgement

S.S. Saron, J.

The appeal has been filed by the appellant Baljinder Kaur against the judgment and order dated 21.08.1997 passed by the

learned Additional Civil Judge (Senior Division), Malerkotla whereby the petition of the respondent-Gulzar Singh under Sections 7 and 25 of the

Guardian and Wards Act for appointing him as the guardian of the minor was allowed and he was held entitled to take custody of the minor from

the appellant. The respondent filed a petition u/s 25 of the Guardian and Wards Act, 1890 alleging that the minor was his real grandson. Bali Singh,

it was stated, was the son of the respondent-Gulzar Singh and father of minor Kaka. Bali Singh had died on 24.06.1988. The minor Kaka did not

own any property and at the time of filing of the petition, he was in the custody of his mother namely Baljinder Kaur (appellant). The appellant-

Baljinder Kaur (mother of the minor), it was alleged, did not have any interest in the welfare of the minor since she had solemnized a second

marriage after the demise of her husband (namely Bali Singh) and father of minor Kaka. It was also alleged that respondent-Gulzar Singh and his

wife namely Mukhtiar Kaur (grand mother of minor Kaka) had no near relative. Harpal Singh another son of Gulzar Singh was also residing with

him. No guardian of the person of the minor was appointed by Bali Singh (deceased) father of the minor. The respondent and all family members

had love and affection for the minor.

2. Notice was given to respondent No. 1-General Public and to respondent No. 2-Baljinder Kaur (mother of the minor). No one appeared for

respondent No. 1-General Public and it was proceeded against ex parte. Respondent No. 2 in the petition namely Baljinder Kaur, the present

appellant, appeared and filed her reply. It was admitted that the respondent-Gulzar Singh was grand-father of Kaka. However, he had no right to

file the petition. It was admitted that Bali Singh expired on 24.06.1988. At the time of death of Bali Singh, Baljinder Kaur-appellant was pregnant.

The respondent-Gulzar Singh, it is alleged, refused to keep or maintain her. He did not allow her to stay in her in laws house and had turned her

out. She had no other relative but to come and live with her parents where she was residing. The minor Kaka was born six years earlier to the filing

of the petition at village Memsa in her parental house. Information regarding the birth of a son was sent to Gulzar Singh (respondent) but none

came to see the child. The respondent-Gulzar Singh had no love for the minor rather the appellant Baljinder Kaur being his mother had love and

affection for him. The respondent-Gulzar Singh did not provide any maintenance for the child. He was under the care and guardianship of the

appellant and was getting education in a school.

3. As already noticed that the minor Kaka @ Jagsher Singh was born on 13.11.1988. The petition for his custody was filed on 28.09.1994.

According to the appellant, the minor was six years of age at that time. The custody of minor was given to Gulzar Singh (respondent) and he was

declared as guardian vide impugned order dated 21.08.1997. The appeal of Baljinder Kaur was admitted by this Court on 23.01.1998 and

operation of the impugned order was stayed.

4. At present the minor has attained the age of majority and it is for him to decide where he wants to live. The question of appointing his guardian

no longer survives as the minor has attained the age of majority. Therefore, the appeal has been rendered infructuous and is accordingly dismissed

as infructuous.