

(2013) 08 P&H CK 0888

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1913 of 1997

Rajinder Kaur

APPELLANT

Vs

Gulzar Singh and another

RESPONDENT

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.