

**IN THE COURT OF SH. AMIT MALHAN, PCS, ADDL. CIVIL
JUDGE (SR.DIVISION)/GUARDIAN JUDGE HOSHIARPUR
UID No. PB0250**

Regn.No. GW/25/2015

CNR No. PBHO02-000791-2015

Date of Instt: 30.05.2015

Date of decision:**16.07.2018**

Vijay Kumar son of Roshan Lal, resident of Shanti Nagar, Bajwara Byepass,
P.S. Sadar, Hoshiarpur.

.....Applicant

Versus

Kanchan Dogra wife of Vijay Kumar, daughter of Varinder Dogra, resident
of Mohalla Ramgarh, P.S. Model Town, Hoshiarpur.

.... Respondent

Application U/s 12 of Guardian and Ward Act, 1890

Present : Sh. MDS Gill, Adv., counsel for applicant
Ms. Bandana Rana, Adv., counsel for respondent

ORDER

The applicant has filed the present application U/s 12 of
Guardian and Ward Act, 1890.

2. As per the version of the applicant his marriage was solemnized
with the respondent on 5.11.2007 as per Sikh Rites. The marriage between
the parties was love marriage and no dowry articles were taken or given by
parents of the respondent. The respondent quarreling with the applicant and
his parents on petty matters. She used to compel the applicant to take his
share from the property of his father and to live separate from his parents.
The applicant has two other brothers. His elder brother is living separately
and is not keeping good health and the other brother is mentally disabled.
There is no one to look after his father who is old and suffering from
ailments. On 7.08.2008 the respondent went to her parental house and at that
time she was pregnant. The applicant used to visit her parents house to

enquire about her health almost everyday. After completion of month of Swan when the applicant requested the parents of respondent to send her with him, they started putting off the matter on one pretext or the other and ultimately refused to send the respondent with him. A false case was got registered against the applicant and his parents. After the registration of the case against the applicant and his parents a male child was born to respondent, but no intimation regarding the birth of the child was sent to the applicant. The applicant is natural father of the male child and he has full love and affection for the minor child and the respondent. Earlier the application U/s 12 of the Guardian and Ward Act was filed, but in that case compromise was effected between the parties and the said case was withdrawn. However, the respondent did not fulfill the terms of the compromise and the compromise became void. The applicant wants to live with his son which is in the custody of the respondent. Hence, the present petition.

3. Upon notice the respondent appeared through counsel and filed written reply in which preliminary objection raised that the application is highly misconceived; the present application is not maintainable; the application is not filed in prescribed format as provided U/s 10 of the Act.

4. On merits, the relationship between the parties is admitted. It was further submitted that sufficient dowry articles were given by the parents of the respondent to the applicant and his family. The applicant and his family members started harassing the respondent from the very outset of the marriage and they demanded more dowry and as their demand was not fulfilled, they maltreated the respondent and used to beat her. When the respondent became pregnant the family of the applicant asked her to get the fetus aborted, but she refused and on this the respondent was beaten

mercilessly and thrown out of the matrimonial house in three wearing apparels. It is further submitted that after the birth of the child intimation was sent to the house of the in-laws, but they never bothered to ask about the well being of the child or the mother. None from their house ever came instead the applicant even denied being father of the child. The remaining allegations were denied and prayed for dismissal of the application was made.

5. From the pleadings of the parties the following issues were framed by my Ld. Predecessor on 9.08.2016:-

1. Whether petitioner is entitled for visitation rights qua minor child Shaurya @ Hanumant? OPP
2. Whether the present petition is not maintainable under the provisions of Guardian & Wards Act? OPR
3. Whether the petition is not filed in prescribed format under Section 10 of the Act? OPR
4. Whether the requisite court fees has not been affixed? OPR
5. Relief.

6. The applicant failed to adduce any evidence to prove his case, although availed numerous opportunities as a result thereof, the evidence of the applicant was closed by order.

7. The Ld. Counsel for the respondent on the other hand, stated at bar that, as the applicant has not led any evidence so they do not want to lead any evidence in this case.

8. After hearing the Ld. Counsel for the parties and going through the documents placed on record, my issue wise findings are as under:-

ISSUE NO. 1

9. The onus was upon the applicant to prove this issue and the applicant was required to prove that he is entitled for visitation rights qua minor child Shaurya @ Hanumant. However, in order to prove his case the applicant has not examined any witness. Even applicant himself did not step

into the witness box as his own witness. Since, there is no evidence led by the applicants, hence, this issue is decided against the applicant and in favour of the respondent.

ISSUES NO. 2, 3 & 4

10. The onus to prove all these issues was upon the respondent. No evidence led in this regard. The Ld. counsel for the respondent did not advance even a single argument on these issues. Hence, all these issues are decided against the respondent and in favour of the applicant.

RELIEF.

11. In view of the above discussion, the application filed by the applicant is dismissed Under Order 17 Rule 3 CPC with no order as to costs.

Memo of costs be prepared. File be consigned to the record room.

Pronounced.

16.07.2018

'Avtar stenographer-II

[Amit Malhan]

Additional Civil Judge (Sr.Divn.)/Guardian Judge.
Hoshiarpur