

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

JUDGMENT

SB Civil Transfer Application No. 14/2013
Usha Nagar v. Hemant Kumar Verma

HON'BLE MR. JUSTICE ALOK SHARMA

31.3.2014

Mr. Dilip Sinsinwar for the applicant wife
Mr. B.S Bairwa for the respondent husband

The case of the applicant wife is that the non-applicant husband has moved an application under sections 10 and 25 of the Guardians and Wards Act, 1890 (hereinafter 'the Act of 1890') before the Family Court, Alwar. Counsel submits that the two minor daughters born out of the wedlock of the applicant wife and the non-applicant husband are residing with their mother at Alwar and therefore in terms of section 9 of the Act of 1890 an application under sections 10 and 25 of the Act of 1890 at the instance of the non-applicant husband is not maintainable at Ajmer. It was submitted that the provisions of section 9 of the Act of 1890 were brought to the notice of the Family Court, Ajmer whereupon it was observed by the learned Presiding Judge in his order dated 5.10.2012

that the applicant wife had an option of moving an application for transfer of the case before this Court. Hence this transfer application.

I have heard the counsel for the applicant wife and perused the order-sheets of the Family Court, Ajmer.

In my considered view there is no occasion to exercise the discretionary jurisdiction of this Court under section 24 CPC. The issue as detailed from the facts here-in-above recorded is as to whether the Family Court, Ajmer has in the facts of the case jurisdiction to entertain the application under sections 10 and 25 of the Act of 1890 for the custody of two minor daughters at the instance of the non-applicant husband. An application objecting to the jurisdiction of the Family Court has already been moved by the applicant wife before the Family Court, Ajmer with reference to section 9 of the Act of 1890.

In the circumstances, in my considered opinion it will be just and proper to direct the Family Court, Ajmer to adjudicate the applicant wife's application, questioning its jurisdiction, within a period

of two weeks from the date of presentation of a certified copy of this order. It is made clear that prior to the determination of question of jurisdiction on the objection raised by the applicant wife, no orders on merits will be passed in the case.

The transfer application stands disposed of accordingly.

(Alok Sharma) J

Sharma NK

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed."

NK Sharma, Sr.P.A