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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 22nd January, 2026
Pronounced on: 12th March, 2026

\+ CM(M) 2267/2024, CM APPL. 19991/2024

SH VIPIN KAUL .....Petitioner

Through: Mr. Vipin Raina, Advocate

versus

SMT KANTA DESHWAL .....Respondent

Through: Ms. Rachna Maheshwari and Mr. Mannu Bansal, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Article 227 of the Constitution of India, 1950, seeks the following prayers: -

> "a) Stay the operation of the impugned order dated 19.01.2024 and order dated 28.02.2024 till the final disposal of the present petition, in the interest of justice;

b) Set aside the impugned order under suit no. GP 42/2023 for lack of territorial jurisdiction of the Hon'ble Ld. Family Court, District Saket/South, in the interest of justice.

c) Pass any other or further orders which this Hon'ble court deems fit, expedient and/or appropriate in the facts and circumstances of this case.

d) Award the costs in favour of the Petitioner, in the interest of justice."

2. The present petition has been filed assailing the impugned orders dated 19.01.2024 and 28.02.2024. *Vide* impugned order dated 19.01.2024, the application under Section 9(1) of the Guardians and Wards Act, 1890 (for short, 'Act'), filed on behalf of the petitioner was dismissed and he was directed to file reply/written statement to the Guardianship petition, GP No. 42/2023, filed by the respondent under Section 25 of the Act for grant of custody of Baby 'K', who is the granddaughter of the respondent.

3. The respondent is mother-in-law of the petitioner and maternal grandmother (*naani*) of the child-'K'. The mother of the minor child-'K' is stated to have passed away on 09.05.2021 due to corona virus. The subject petition was filed by the respondent seeking custody of her granddaughter wherein jurisdictional issue was raised by the petitioner and the same was dismissed by the learned Family Court on 19.01.2024. *Vide* impugned order dated 28.02.2024, the petitioner was granted last and final opportunity to file reply/written statement to the application under Section 12 of the Act subject to costs of Rs.5,000/-, to be paid to the respondent.

4. Learned counsel for the petitioner submits that *vide* the impugned order dated 19.01.2024, the learned Family Court has erred in dismissing the application under Section 9(1) of the Act inasmuch as the petitioner is biological father of the minor child has been taking care and looking after his child baby 'K' since June 2022 at his residential address G-19/2, 1st Floor, DLF City-I, Sector-26, Chakarpur, Gurugram, Haryana. It is further submitted that learned Family Court has wrongly concluded that the minor child was born in Malviya Nagar, Delhi; however, as per birth certificate of the child issued by SDMC, the place of birth has been mentioned as Apolo Cradle, Nehru Enclave, Kalkaji, New Delhi. It is submitted that as per *aadhar* card of the minor child, the address has been mentioned as Neb Sarai. Therefore, the observation of the learned Family Court that the child was born in Malviya Nagar is incorrect in view of the birth certificate of the child. It is further submitted that minor child was in care and custody of the petitioner and is ordinarily residing in Gurugram, Haryana, and, therefore, the learned Family Court in Delhi has no jurisdiction to adjudicate upon the matter. It is the case of the petitioner that he alongwith his wife, minor child and his father initially used to reside at Neb Sarai, Delhi; however, in June 2022, they shifted to their newly purchased house situated at the aforesaid address in Gurugram, Haryana. It is submitted that there is no documentary evidence on record to show that minor child used to reside in Malviya Nagar. Learned counsel for the petitioner has placed on record photographs of the latter alongwith his minor child and father.

5. *Per contra,* learned counsel for the respondent submitted that the impugned order dated 19.01.2024 has been passed after noting all the relevant judgment with respect to 'ordinary place of residence' and exercise of discretion conferred under Section 9(1) of the Act. It is submitted that the daughter of the respondent was staying with her when the birth of the minor child-'K' had taken place, and thereafter, the daughter of the respondent got diagnosed with corona virus and since then, till April 2023, the minor child was ordinarily residing with the respondent in Malviya Nagar and was in exclusive care and custody of the respondent. It is submitted that thereafter, the minor child was looked after by the respondent herself and the petitioner used to visit her occasionally at their home in Malviya Nagar. It is submitted that *aadhar* card of the child issued on 14.08.2021 in Delhi mentions the place of residence as Malviya Nagar, Delhi. It is submitted that the petitioner has failed to place on record any documentary evidence to show that the child was staying with him alongwith his family members in Gurugram prior to filing of the Guardianship petition. It is further submitted that in February, 2023, in clandestine manner, the petitioner changed the residential address of the minor child in her *aadhar* card, however, it is pointed out that the photograph in the *aadhar* card remained the same as was originally captured. It is further submitted that, in April 2023, the petitioner unlawfully without the consent of respondent took the minor child out of the custody to his house in Gurugram and did not return her. Regarding this, a complaint was filed with SHO, P.S. Malviya Nagar on 18.05.2023 *vide* diary no. 294-BPC/2023. Thereafter, the subject guardianship petition was filed seeking custody of the minor child. Learned counsel for the respondent submitted that the petitioner

had shifted to Gurugram in 2022 after the purchase of the property; however, the minor child was staying with the respondent after the demise of the daughter of the respondent in Malviya Nagar. It is further submitted that a contempt petition in GP No. 42/2023 was also filed by the respondent with respect to non-compliance of impugned order dated 28.02.2024 whereby, the petitioner was directed to bring the minor child to children room, Family Court, Saket, Delhi, on every 3rd Saturday of the month for an hour from 11.00 AM to 12 noon for visitation so that the respondent/maternal grand mother of the child could have a interaction with the child during the pendency of the application under Section 12 of the Act. It is submitted that the petitioner never turned up at the children room in Family Court, Saket in compliance with the aforesaid direction. It is submitted that the said contempt petition is pending sub-judice before the learned Family Court. After the demise of the daughter of the respondent, the petitioner has re-married and is started living with his second wife/step mother of the child, who has no love and affection for minor child 'K',

6. It is further pointed out that the cost of Rs. 5,000/- imposed by learned Family Court on the petitioner *vide* impugned order dated 28.02.2024 has not been paid to the respondent. In these circumstances, it is prayed that the present petition be dismissed.

7. *In rejoinder*, learned counsel for the petitioner has submitted that the change of address in *aadhar* card in February, 2023 was for the purpose that new address of the child could be updated in the formal documents. It is

further submitted that the petitioner had exclusive custody of the minor child since her birth on 17.04.2021 and was looked after by the petitioner at their residential address in Gurugram, Haryana, and therefore, the present petition be allowed.

8. Heard learned counsels for the parties and perused the records.

9. Learned Judge, Family Court-01, South, Saket while dismissing the application under Section 9 of the Guardianship and Wards Act, 1890, filed by the petitioner raising issue of jurisdiction had observed as under: -

> "**12.**Arguments heard from both the sides. Record perused and considered.
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> **13.lt is not in dispute that the minor child was born at Malviya Nagar, Delhi on 17.04.2021. The mother of the minor child expired due to Corona Virus on 09.05.2021 at Malviya Nagar, Delhi. According to the respondent, the minor child has been residing at Gurugram. Haryana with him since June, 2022. On the other hand, the case of the petitioner is that the respondent deceitfully took away the minor child in the month of April, 2023. The Aadhar Card of the minor child was got prepared on 14.08.2021 at the address of Malviya Nagar, Delhi. From this it is clear that the minor child has been residing at Malviya Nagar, Delhi. The respondent is claiming that the minor child has been residing at Gurugram, Haryana since June. 2012 but there is no document to support it. The copy of complaint made to SHO PS Malviya Nagar, Delhi dated 18.05.2023 in which the petitioner categorically stated that the respondent took away the minor child in the month of April. 2023 to his house at Gurugram, Haryana on the promise that he will return the custody. of the minor child tb her after 2-3 days but he failed to return the custody of the minor child to the petitioner. Hence, from the material on record it is prim. facie established that since her birth on 17.04.2021 the minor child was residing in Delhi with the petitioner**

at Malviya Nagar, Delhi till April, 2023. The present petition was filed on 20.05.2023. · The Court has to see what was the ordinarily place of residence of the minor child on the date when the petition seeking custody of the minor child was filed. The minor child has been residing with the petitioner since the date of birth i.e. 17.04.2021 till April, 2023. The present petition has been filed on 20.05.2023. Thus, the ordinarily place of residence of the minor child was/is Malviya Nagar, Delhi and not Gurugram, Harya.t1a as claimed by the respondent.

14. In ***Amal Saha v. Smt. Basana Saha passed by Guhati High Court decided on 08.04.1987*** held in para no.8 as under:-

> *8. The language of Sub-section (1) of Section 9 of the Act is clear und there is no ambiguity. In order to give 1he trial Court jurisdiction under the Act, the minor must be ordinarily resident within the local limits of the Jurisdiction of the Court in view of the provisions contained in the above sub-section. In other word!; the condition precedent for the purpose of exercising jurisdiction by the Court is circumscribed by the condition that the minor must be ordinarily resident within the jurisdiction of the concerned Court and this is a question of fact But in deciding this question the Court has to bear in mind the following principles namely (I) it has to be decided on the basis of facts available on records. (2) as the expression 'ordinarily resident' has a different meaning than "residence at the time of application" the Court has to ignore recent removal if any, from a place where the minor ordinarily resides; if this fact of recent removal is taken into consideration, the provisions o{ the Ad will be rendered nugatory: (3) there is no presumption that the minor is deemed to reside at the place where his natural guardian resides as tile place of residence of natural guardian is not the determining factor in deciding the question of jurisdiction of the Courl However, in deciding, the place where minor ordinarily resides. The Court comes to a finding that the minor was residing with any one of his parents. The question of constructive custody may arise depending on the circumstances of the case and (4) if the minor has no permanent abode, he must deemed to reside where he actually resides.*

15. As per the ruling Amal Saha v Smt Basana Saha (Supra) while considering the ordinary place of residence of a child the Court has to see what are the facts available on record, the ordinary place of residence has a different meaning than the residence at the time of filing of application under the Guardianship and Wards Act, the Court should not presume that the minor is deemed to reside at the place where his natural guardian resides and if the minor has no permanent abode, he must be deemed to reside where he actually resides. In the case in hand the material available on record clearly show that the minor child was residing with the petitioner at Delhi. At the time of filing of the present petition/application the minor child was residing at Gurugram, Haryana but the same carmot be considered her ordinary place of residence as she was taken to Gurugram, Haryana only in the month of April, 2023. Just on the basis of admission of the minor child in a school at Gurugram, Haryana and Aadhar Card of the minor child was re-issued at Gurugram, Haryana it cannot be presumed that the minor child ordinarily resides at Gurugram, Haryana.

16.***In K.C Sashidhar v. Roopa 1993 0 AIR(Kar) 120; 1992 0 IRL(Kar) 2791*** the Hon'ble Karnataka High Court has held in para 4 of the ruling:-

> *4. Invariably, a minor child that too l/1 the age of 10 to 11 months is expected to be with the custody of the mother. So the words "ordinarily resides" should be construed as the place where the mother resides before the presentation of the petition. It is an admitted fact that in the instant case, the mother was residing at Mysore when she presented the petition at Mysore seeking custody of the child. Further; it is to be noted that she has alleged in her petition circumstances under which the child was forced to be left in the custody of the father. When such is the case, the place of residence has to be construed as the place where. mother resided before presenting the petition. In view of that, the finding given by the Court below that the petition filed by the petitioner, namely the mother, at Mysore, having jurisdiction does not suffer from any legal infirmities. In **Mst. Firoza Begum v. Akhtaruddin Laskar AIR 1963 Assam 193** wherein the Assam High Court observed (at p. 194 of AIR):-*

"It is contended by Mr. Chose that the expression "ordinarily resides". does not mean casual or factual residence of the minors at the time of the application being made and that normally the residence of the minor should be taken as the place where the legal guardian is residing…. That the expression where the minor "ordinarily resides" appears to have been deliberately used to exclude places to which the· minor may be removed at or about the time of the filing of the application for the enforcement of the guardianship and custody of the minor and that the phrase "ordinarily resides" indicates ordinary residence even at the time of the presentation of the application under Section 25 of the Act, and that the emphasis is undoubtedly on the minor's ordinary place of residence."

17. The Hon'ble Karnataka in K.C Sasidhar v. Roopa (supra) held that the words "ordinarily resides" should be construed as the place where the mother resides before the presentation of the petition. The mother was residing at Mysore when she presented that petition a Mysore seeking custody of the child. She also stated in the petition the circumstances under which the child was forced to be left in the custody of the father and in such a case the place of residence for the minor child has to be construed at the place where the mother resides. K.C Sashidhar (Supra) is squarely applicable to the facts of the present case as in the case in hand also the minor child was residing with the her nani/petitioner since birth and it was only in the month of April, 2023 the custody of the child was taken by the respondent, therefore, the ordinary place of residence of the minor child is Delhi where the petitioner is residing.

18. In ***Sunaina Chowdhary v. Vikas Chowdhary 2013 0 AIR (P H) 147: 2012 4 Law Herald 2971*** Hon'ble Punjab & Haryana High Court has held in para 15 as under:-

"15. In a recent judgment reported as Prashant Chanana v. Mrs. Seema alias Priya (2010) 1 RCR (Civil) 400, it has been held by a single judge of this court that the permanent residence is an elastic word which the exhaustive definition cannot be given. It was held to the following effect:-

"12. Section 9(1) makes it clear that it is the ordinary place of residence of minor which determines the jurisdiction of a particular Court to entertain an application for guardianship of the minor. Such jurisdiction cannot be taken away by temporary residence elsewhere at the date of presentation of the challan (plaint sic). The terms 'residence' is an elastic word of which an exhaustive definition cannot be given. It is differently construed according to the purpose for which enquiry is made into meaning of the term. The sense in which it should be used is controlled by reference to the objector. A reasonable meaning of 'residence' would mean dwelling in a place for some continuous time. The word 'ordinarily resides' in sub Section 1 means mere a temporary residence, even though, it will be of such temporary residence may be considerable. Word ordinarily resides would mean a regular normal a settled home or a regular place of abode, which can be distinguishable from a temporary or a forced stay. If a minor child has been removed either by stealth or by compulsion and kept at a different place than the house of a natural born, the same cannot be said to be a place where the child 'ordinarily resides'. The respondent has in her petition for the custody of the child specifically mentioned and actually admitted that the child has been taken to Lucknow. She also explained the circumstances that the child had been snatched from her when she was residing at Mohali, where the couple had shifted after three years of marriage."

19. The Punjab & Haryana High Court in Sunaina Chowdhary v. Vikas Chowdhary (Supra) has held that the word "ordinarily resides" would mean a regular, normal, a settled home or regular place of abode which can be distinguishable from a temporary or a forced stay. In the case in hand, the regular, normal, settled home of the minor child is in Delhi and she was temporarily residing at Gurugram, Haryana.

20. The rulings relied upon by the learned counsel for the respondent are not to any help of the respondent because the ordinarily place of residence of the minor child was Malviya Nagar, New Delhi at the time of filing of the present petition.

> 21. In view of the above discussions and considering the facts of the case it is clear that the ordinary place of the residence of the minor child is Malviya Nagar, Delhi where the petitioner was/is residing with the minor child. There is no merit in the application U/s 9(1) of the GW Act and the same is dismissed."
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> **(emphasis supplied)**

10. Perusal of the record shows that, as per birth certificate of the minor child 'K' dated 31.05.2021 issued by SDMC, the date and place of birth of the child is stated to be 17.04.2021 and Apolo Cradle, R-2, Nehru Enclave, Kalkaji, New Delhi, respectively. It is the case of the respondent that after the birth of minor child she has been in custody and care of the respondent at her residential address in Malviya Nagar, Delhi. It is further the case of the respondent that the petitioner had unlawfully taken the child out of her custody in May 2023, and never returned the child regarding which a complaint was filed with SHO, P.S. Malviya Nagar. The *Aadhar* card of the child 'K' prepared on 14.08.2021 reflects the address of Neb Sarai, Delhi. It is the case of the petitioner that he had relocated with the minor child to Gurgaon in June 2022. The *Aadhar* card, on which the petitioner placed reliance on, reflecting the updated address of Gurugram, Haryana, was prepared in February 2023. Relying on the aforesaid *Aadhar* card, it is the case of the petitioner, that the learned Family Court erred in holding that the child was living with the respondent at her residential address in Malviya Nagar, Delhi. It is pertinent to note that the documents relied upon by the petitioner were to the effect that the child was born in Delhi, and the address given was of petitioner while he was living in Delhi. Even if, the argument of learned counsel for the petitioner is accepted, the jurisdiction will not change

from Delhi to Gurugram. It is the contention raised on the behalf of the petitioner was that the complaint filed by the respondent at P.S. Malviya Nagar does not bear any details demonstrating as to when the same was actually filed. It is pertinent to note that the said complaint is bearing diary No.294-BPC/2023 and is dated 18.05.2023 and the subject guardianship petition was filed on 20.05.2023.

11. Moreover, admittedly, in the present petition, the petitioner has made the following averments: -

> "14. That while the petitioner was occupied with caring for his late wife, Mrs. Priyanka, both at home and at Lady Harding Hospital in Delhi, and later to perform the rituals following her demise on 09.05.2021, the minor child was briefly taken care by the sister-in-law of the Respondent.
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> 15. That after the passing of the minor child's biological mother, The Petitioner used to make flying visits to Respondent's house to ensure her wellbeing, during these visits, the petitioner observed that after the demise of respondent's daughter, the respondent became excessively obsessed with the minor child so much so that the respondent even contemplated calling upon the spirit of her late daughter. The respondent is grappling with mental health challenges following the loss of her husband and daughter."

Thus, the petitioner admits the fact that the child was at one time in the custody of the respondent. In these circumstances, complaint dated 18.05.2023 filed by the respondent at Police Station Malviya Nagar becomes relevant to demonstrate that the child was ordinarily residing with respondent before being taken away in April 2023, and thus, at the time of filing of guardianship petition.

12. At this stage, it is apposite to the refer to the judgment of Hon'ble Madhya Pradesh High Court in **Adesh Gupta v. Sadhna Gupta[1],** by Hon'ble Mr. Justice Alok Aradhe, as his lordship then was, wherein, while dealing with the issue of territorial jurisdiction under Section 9 of the Guardians and Wards Act, 1890, it was observed and held as under: -

> "**7.** It is well settled in law that while dealing with the application under Order 7, Rule 11 of the Civil Procedure Code, only the averments made in the plaint alone are to be seen *See* : *Saleem Bhai* v. *State of Maharashtra*, 2003 (2) MPLJ (S.C.) 320 : (2003) 1 SCC 557. In the case of *Ruchi Majoo*, supra, the Supreme Court while considering section 9(1) of the Act has held that solitary test for determining the jurisdiction of the Court under section 9 is ordinary residence of the minor. The expression used in section 9(1) of the Act is "where the minor ordinarily resides". **Whether the minor is ordinarily residing at a given place is primarily a question of intention which in turn is a question of fact. It may at best be mixed question of law and fact. It has further been held that unless jurisdictional facts are admitted, it can never be pure question of law capable of being answered without an enquiry into the factual aspects of the controversy**.
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> **8.** Thus, from the aforesaid enunciation of law by the Supreme Court, it is apparent that the question whether the minor is ordinarily residing at a given place is primarily a question of fact which cannot be decided without an enquiry into the factual aspects. Besides that it is relevant to mention here that residence by volition or by compulsion within territorial jurisdiction of the Court cannot be treated as place of ordinary residence. Similarly, the words "ordinarily resides" are not identical and cannot have the same meaning as residence at the time of filing of the application for grant of custody. **The purpose of using the expressions "where the minor ordinarily resides" is probably to avoid the mischief that minor may be forcibly removed to a distant place, but still the application for minor's custody could be filed within the jurisdiction of the Court from whose jurisdiction he had been**

[1] **2012 SCC OnLine MP 135: (2012) 1 MP LJ 406**

removed or in other words where the minor would have continued to remain but for his removal. Similar view has been taken in *Konduparthi Venkateshwarlu* v. *Ramavarapu Viroja Nandan*, AIR 1989 Orissa 151. If the averments made by the respondent in paragraphs 4, 11, 15 and 16 of the petition filed by her are seen, it is apparent that the children have been removed from Chhattarpur without her consent. **The jurisdictional facts are not admitted and the petition, contains the averment that the Court at Chhattarpur has the territorial jurisdiction to try the petition. The question whether the Court at Chhattarpur has territorial jurisdiction to try the petition is a mixed question of law and fact, as the same is dependent on the question whether the minors are residing within the territorial jurisdiction of the Court. The aforesaid question cannot be determined without holding enquiry into the factual aspects of the controversy. The scope of scrutiny at the stage of consideration of an application under Order 7, Rule 11 of Civil Procedure Code is confined only to the averments made in the petition. Thus, the question whether the Court has territorial jurisdiction being mixed question of law and fact cannot be decided by way of an application under Order 7, Rule 11 of Civil Procedure Code.**"

(emphasis supplied)

13. Further, reference can be made to a judgment passed by learned Division Bench of Hon'ble Allahabad High Court in **Dheeraj v. Chetna Goswami**[2], wherein it was observed and held as under: -

"**11.** From a bare reading of Section 9 of the Guardians and Wards Act, 1890, it is evident that sub-section (1) of Section 9 identifies the court competent to pass an order for the custody of the minor. Sub-sections (2) and (3) thereof deal with courts that can be approached for guardianship of the property owned by the minor.

12. For determining the territorial jurisdiction of the court under Section 9 of the Guardians and Wards Act, 1890, the expression "where the minor ordinarily resides" is the pivotal point for consideration. The said

[2] **(2024) 1 High Court Cases (All) 496: 2024 SCC OnLine All 1610**

expression has been used in different contexts and has often come up for interpretation before the courts of law. While reading the said expression "where the minor ordinarily resides", it is imperative to see whether the minor is ordinarily residing at a given place? This is primarily a question of intention which, in turn, is a question of fact. **It may at best be a mixed question of law and fact but unless jurisdictional facts are admitted, it can never be a pure question of law, capable of being answered without any enquiry into the factual aspects of the controversy.**

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26. It is settled law that for invoking clause (*d*) of Order 7 Rule 11 of the Civil Procedure Code, 1908, only the averments made in the plaint would be relevant and thus, for this purpose, there cannot be any addition of subtraction. The issue of merits of the matter would not be within the realm of the court as the court at that stage will not consider any evidence or enter a disputed question of fact or law. While dealing with the application under Order 7, Rule 11 of the Civil Procedure Code, 1908, the averments made in the plaint alone are to be seen. It is also trite that jurisdiction is a mixed question of law and fact, and a plaint should not ordinarily be rejected on the ground of jurisdiction, without framing a distinct issue and taking evidence.

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29. The question whether the minor is ordinarily residing at a given place is primarily a question of fact which cannot be decided without an enquiry into the factual aspects of the case. Moreover, the residence by volition or by compulsion within the territorial jurisdiction of the court cannot be treated as place of ordinary residence. The words "ordinarily resides" are not identical and cannot have the same meaning as residence at the time of filing of the application for grant of custody. **The purpose of using the expressions "where the minor ordinarily resides" is perhaps to avoid the mischief that minor may be forcibly removed to a distant place, but still the application for minor's custody could be filed within the jurisdiction of the court from whose jurisdiction he had been removed or in other words where the minor would have continued to remain but for his removal.**

> **30.** In *Ruchi Majoo* v. *Sanjeev Majoo* [*Ruchi Majoo* v. *Sanjeev Majoo*, (2011) 6 SCC 479 : (2011) 3 SCC (Civ) 396 : (2011) 2 SCC (Cri) 1033] , the Supreme Court while considering Section 9(1) of the Guardians and Wards Act, 1890 has held that solitary test for determining the jurisdiction of the court under Section 9 of the Guardians and Wards Act, 1890 is ordinary residence of the minor. The expression used in Section 9(1) is "where the minor ordinarily resides". *Whether the minor is ordinarily residing at a given place is primarily a question of intention which in turn is a question of fact. It may at best be mixed question of law and fact. It has further been held that unless jurisdictional facts are admitted, the question "where the minor ordinarily resides" can never be pure question of law, capable of being answered without an enquiry into the factual aspects of the controversy*."
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> **(emphasis supplied)**

14. In the present case, jurisdictional facts are not admitted. Thus, the issue whether Delhi Court will have jurisdiction becomes a mixed question of law and fact which cannot be determined without holding an enquiry whether the child was residing in Delhi before being taken away to Gurugram as has been claimed and pleaded in the guardianship petition. In these circumstances, this Court does not find any ground to interfere with the impugned order dated 19.01.2024 in GP No.42/23 passed by learned Judge, Family Court-01, South, Saket, Delhi, as the same can be considered to be preliminary in nature. Needless to state that, in case, the petitioner takes an objection in the written statement with regard to maintainability of the guardianship petition filed on behalf of the respondent under Section 9 of the Act on the ground of lack of territorial jurisdiction, the learned Judge, Family Court, shall decide the same in accordance with law without being influenced by the aforesaid impugned order.

15. Further, learned Judge, Family Court *vide* impugned order dated 28.02.2024 had granted one last and final opportunity to the petitioner to file reply/written statement and reply to application under Section 12 of the Act, subject to cost of ₹5000/- to be paid to the respondent and supply advance copy to the opposite party. In view of the fact and circumstances of the present case, aforesaid cost is waived off. The petitioner is directed to file reply/written statement within a period of three weeks before the learned Judge, Family Court, South, Saket, Delhi, with an advance copy to learned counsel appearing on behalf of the respondent herein before learned Family Court.

16. The present petition is disposed of in the aforesaid terms.

17. Interim order dated 04.04.2024 stands vacated.

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

19. Copy of the judgment be sent to the learned Judge, Family Court-01, Saket, South, Delhi, for necessary information and compliance.

20. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
(JUDGE)

MARCH 12, 2026/bsr/ns