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ORDER-04

15.08.2023

Petitioner along with counsel present. Publication received but none present on behalf of public at large, hence, placed and proceeded against ex-parte. Ex-party evidence of petitioner recorded as PW-01 to PW-03 and closed. Ex-parte arguments also heard and record gone through.

Counsel for petitioner requested for correction the father's name of petitioner in the head note of the petition inadvertently mentioned as Said Hussain Shah instead of Said Amin Shah. Allowed. Muharrir is directed to do the needful.

Perusal of case file reveals that the instant petition is instituted by the petitioner namely **Hikmat Khan S/O Said Ameen Shah** for appointment as legal guardian for the person and properties of the minors namely **Khalid Khan aged about 07 years, Muhammad Ihtisham aged about 06 years Ss/O, Mst. Sania Bibi aged about 05 years and Mst. Nazia Bibi aged about 12 years Ds/O Muhammad Akbar** mentioned in the petition on the grounds that the petitioner is the real maternal uncle of the minors and that parents of minors have been died.

The respondents/general public were summoned through publication in newspaper "Daily Ausaf" dated: 11.08.2023, however none turned up as legal guardian of the minors other than the petitioner. Therefore, the respondent proceeded against ex-parte. Consequently, petitioner produced ex-parte evidence.

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During course of recording evidence, Hikmat Khan (petitioner) recorded his statement as PW-01. Siyal Gul deposed as PW-02. Nazif khan deposed as PW-03. PW-01 produced copy of death certificate of father of

minors namely Muhammad Akbar as Ex.PW-1/1, copy of death certificate of mother of minors namely Mst. Saeeda Bibi as Ex.PW-1/2, Birth registration certificate of minor namely Khalid Khan as Ex.PW-1/3, Birth registration certificate of minor namely Muhammad Istisham as Ex.PW-1/4, Birth registration certificate of minor namely Mst. Sania Bibi as Ex.PW-1/5, Birth registration certificate of minor namely Mst. Nazia Bibi as Ex.PW-1/6 and copy of his CNIC is Ex.PW-1/7. Contents of the petition were reproduced and verified by the witnesses.

At this stage there seems to be no clash of interest between the minors and the petitioner, being a real maternal uncle of the minors, in the light of statements of witnesses produced by the petitioner. It is evident that minors are residing presently with the petitioner, who is looking after them. As a real maternal uncle, he is most likely to take care of the welfare of the minors. Therefore, the petition in hand is accepted under Section-07 of Guardian & Wards Act, 1890 and petitioner is appointed as guardian of the person of the minors namely **Khalid Khan, Muhammad Ihtisham, Mst. Sania Bibi and Mst. Nazia Bibi** having generally the rights, duties and liabilities of a guardian mentioned in the Guardian & Wards Act, 1890 and subject to the following conditions especially in view of section-34 of the said Act.

- *That he will produce the minors in court as and when required by the court.*
- *That he will maintain and educate the minors in proper manner.*
- *That he will not act in prejudice to the interest of minors.*



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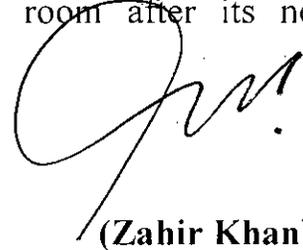
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- *That he will not be entitled to dispose of the property of minors without prior permission of the court.*

Original guardianship certificate be given to the petitioner subject to surety bonds of Rs.200,000/-(two lac) with two local and reliable sureties, while copy of the certificate be placed on file.

File be consigned to the record room after its necessary compilation and completion

Announced
15.08.2023



(Zahir Khan)
Succession & Guardian Judge,
Tehsil Kalaya, Orakzai