


ORDER-03

05.09.2023

Petitioner namely Syed Mir Hussain along with counsel present. Inquiry report received which is placed on file. Publication received but none present on behalf of public at large. Hence, placed and proceeded ex-parte. Ex-parte evidence of petitioner recorded as PW-01 to PW-03 and closed. Ex-parte arguments also heard and record gone through.

Perusal of case file reveals that the instant petition is instituted by the petitioner namely **Syed Mir Hussain S/O Syed Muhammad Jaffar** for appointment as legal guardian for the person and properties of the minors namely **Syed Shahain Shah S/O Syed Saidan Shah aged about 12 years and Mst. Bibi Olya D/O Syed Saidan Shah aged about 11 years** mentioned in the petition on the grounds that the petitioner is the real paternal uncle of the minors and that parents and grandparents of minors have been died.

The respondents/general public were summoned through publication in newspaper "Daily Ausaf" dated: 02.09.2023, 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.


05/09/2023

ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai


During course of recording evidence, Syed Mir Hussain (petitioner) recorded his statement as PW-01. Syed Hamid Hussain deposed as PW-02 and Syed Shahain Shah deposed as PW-03. PW-1 submitted copy of death certificate of Syed Saidan Shah as Ex.PW-1/1, copy of death certificate of mother of minors as Ex.PW-1/2, birth certificate of minor Syed Shahain

Shah as Ex.PW-1/3, birth certificate of minor Mst. Bibi Olya as Ex.PW-1/4 and copy of his CNIC as Ex.PW-1/5. 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 paternal 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 paternal 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 **Syed Shahain Shah and Mst. Bibi Olya** 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.*
- *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.500,000/-(five lac) with two local and reliable sureties, while copy of the certificate be placed on file.


05/09/23

ZAHIR KHAN
Civil Judge JM
Kalaya Orakza

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Syed Mir Hussain vs Public at large. Petition No. 10/2 of 2023

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

Announced
05.09.2023



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