

(4)

**IN THE COURT OF BAKHT ZADA, SENIOR CIVIL JUDGE/SUCCESSION  
& GUARDIAN JDUGE, ORAKZAI**

Petition No.....3/2 of 2024.

Date of institution.....17.01.2024.

Date of decision.....30.01.2024.

*Title: Shamshad Shah Vs Public at Large*

**Order -04**  
30.01.2024

Petitioner along with counsel present. Arguments heard and record perused.

1. Petitioner, Shamshad Shah S/O Jalandar Shah, R/O Qaum Ali Khel, Tappa Panjam, Zanka Khel, P.O Ghiljo, Tehsil Upper, District Orakzai, being real brother of minors namely Rafi Ullah and Rafia Bibi, has applied through the instant petition for his appointment as Guardian. According to petitioner, the above-named minors are residing with him and he being real brother is natural guardian of the minors. That father of minors died on 04.12.2023 and mother of minors also died on 11.05.2017. That in absence of parents of the minors, he is entitled for their appointment as guardian of the minors as he can take better care of the welfare of the minors than any other person.

2. Notice to respondents i.e., public at large was issued in daily newspaper "Ausaf" dated 19.01.2024; but no one appeared before the court, so ex-parte proceedings were initiated. During ex-parte evidence, one Shamshad Shah being special attorney of

**BAKHT ZADA**  
Senior Civil Judg/JM  
Orakzai at Baber Mela  
30-1-24

5

petitioners appeared as PW-01. He produced the following documents.

1. Ex. PW-1/1: Special power of attorney
2. Ex. PW-1/2: Copy of CNIC of PW-01.
3. Ex. PW-1/3 & Ex. PW-1/4: Death certificates of parents of petitioners.
3. PW-02 & PW-03 are the statements of Shah Fayaz and Khabab Shah respectively. They supported the stance of the petitioner and confirmed that minors are residing with the petitioner and he is real brother of the minors.

1. Ex. PW-2/1 and Ex. PW-3/1: CNICs of PW-02 and PW-03.
4. All the exhibited documents, publication and report of process server etc are placed on file. Contents of the petition were reproduced and verified by the witnesses. The report of Naimat Ullah process server overleaf the notice regarding minors of the deceased is self-explanatory. The details of minors of deceased is as under;

S. No	Name of petitioner legal heirs	Major/minor	Relation with deceased
1.	Rafi Ullah	Minor	Son
2.	Rafia Bibi	Minor	Daughter

*Faice*  
 B.A. / A.D.A.  
 Senior Civil Judge/JM  
 Orakzai at Baber Mela

5. There is nothing in rebuttal due to ex-parte and petitioner being real brother of minors as she can take better care of the welfare of the minors than any other person. Therefore, he is appointed as guardian for person and property of the minors named above subject to the following conditions.

6

- That he will maintain and educate the minors in proper manner.
- That he will not take away the minors outside the jurisdiction of this court without prior permission.
- 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.

6. Original guardianship certificate be given to the petitioner subject to surety bonds in the sum of Rs. 200,000/- with two local and reliable sureties each in the like amount to the satisfaction of this court with a blank stamp paper while copy of the certificate be placed on file.

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

**Announced**

30.01.2024

*Sareel 2*  
*30-1-24*

**(BAKHT ZADA)**

SCJ/Succession & Guardian Judge,  
Orakzai at Baber Mela