

Or.....05
24.08.2022

Petitioner No. 2 for himself and as special attorney of petitioner No. 1 and No. 3 along with counsel present. Special power of attorney submitted. Respondents have already been placed ex-parte. List of witnesses submitted. Ex-parte evidence of petitioners recorded as PW-01 to PW-03 and closed. Ex-parte arguments also heard and record perused.

Through this order, this Court is going to dispose of an application submitted by the petitioners for provision of Succession Certificate.

Brief facts of the instant petition are that petitioners seek issuance of a Succession Certificate in their favour on the ground that they are the only legal heirs/successors of deceased Nadar Khan R/O Quom Feroz Khel, Tappa Ghairat Khel, Tehsil Lower, District Orakzai who was serving in FC, whose monthly pension was being received by his widow namely Binaka Bibi who has also died on 03.11.2012. That the deceased has left no other legal heirs except the present petitioners. That petitioner No.1 being specially enabled (mentally challenged), therefore, he is entitled to the family pension of deceased father named above and has requested for the Succession Certificate accordingly. That they approached NADRA for grant of Succession Certificate but it was declined for the reason that deceased has one or more legal heir(s) specially enabled, therefore, there is a factual controversy and they are issued decline certificate accordingly.



24/08/2022
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

Notice was issued in the name of General Public in News Paper Daily "MASHRIQ", however, no one attended the Court from the general

public, hence, placed and proceeded ex-parte. Accordingly, petitioners were given opportunity to produce ex-parte evidence.

Petitioner No. 2/special attorney namely Maseet Khan appeared and recorded his statement as PW-01. Special power of attorney is Ex-PW-1/1. Copy of his CNIC is Ex. PW-1/2. Death certificate of deceased Binaka Bibi is Ex. PW-1/3. Copies of FRC, CNIC of petitioner No.1, CNIC of petitioner No. 3, pension documents (2 pages), bank account application, unfitness certificate and decline certificate issued by NADRA are Ex. PW-1/4 to Ex. PW-1/9. He lastly requested for issuance of Succession Certificate in favour of petitioners.


Niaz Muhammad, neighbor of petitioners appeared and deposed as PW-02. Photocopy of his CNIC is Ex-PW-2/1. He verified that the petitioners are the legal heirs of deceased Nadar Khan and Binaka Bibi.

Abdul Basit, cousin of petitioners appeared and deposed as PW-03. Photocopy of his CNIC is Ex-PW-3/1. He also verified that the petitioners are the legal heirs of deceased Nadar Khan and Binaka Bibi.

Likewise, court bailiff was directed to verify the list of legal heirs of deceased Nadar Khan and Binaka Bibi, who submitted his report wherein it was verified that the petitioners are the legal heirs of deceased.

In the absence of any rebutting evidence, petitioners are hereby declared as the legal heirs of the deceased named above. Succession

Certificate be issued in favour of the petitioners on furnishing surety bonds/undertaking in the sum of Rs: 200,000/- (two lac) with two local & reliable sureties each in the like amount to the satisfaction of this Court to the effect that if there appears any other legal heir of the deceased except


24/08/2022
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

6

above named legal heirs, they would be responsible to the court, along with a blank stamp paper.


As far as transfer of family pension in the name of petitioner No.1 is concerned, it is run through pension rules framed by the Government and this certificate shall have no effect on it.

Before closing, it is pertinent to mention that this certificate does not confer any title to the holder of the certificate and does not conclusively determine the shares in the securities/debts, rather this certificate is issued with the sole purpose to recover the securities/debts from the department concerned. Thus, any person(s), if aggrieved, may press his/their rights through a suit before a competent Forum and to recover the amount received on the basis of said certificate to the extent of his/their shares on the basis thereof. Similarly, this certificate does not place bar on the right of any aggrieved person to establish his/their title and entitlement in the dues of the deceased before a competent court of jurisdiction.

In case, if there is any minor (s) legal heir, then share of the minor (s) be kept intact and shall not be dispose of without prior permission of the Court.

File be consigned to record room after its completion & compilation.

Announced:
24.08.2022



(Zahir Khan)
Civil Judge-I/Succession Judge,
Kalaya, Orakzai