

**IN THE COURT OF SHAHNAZ HAMEED KHATTAK
DSJ/GUARDIAN JUDGE HARIPUR**

Guardianship Petition No: 41/6 of 2023

Date of Institution: 22.02.2023

Date of Decision: 26.06.2023

Mst. Uzma Bibi D/o Syed Qurban Hussain Shah R/o Thipra, Tehsil &
District Haripur ... (Appellant)

...Versus...

1) Public at Large.

2) Sibte-e-Hassan S/o Syed Naeem Hussain Shah, 3) Syeda Ambar
Fatima D/o Syed Naeem Hussain Shah, residents of Thipra, Tehsil &
District Haripur. ... (Respondent)

JUDGMENT:

1. Petitioner Mst. Uzma Bibi, alongwith, his learned counsel Mr. Inayat-ur-Rehman Advocate present.
2. Petitioner Mst. Uzma Bibi D/o Syed Qurban Hussain Shah R/o Thipra, Tehsil & District Haripur has filed the instant Guardianship petition, seeking her appointment as Manager/Guardian of the person and property of her mentally sick son Muhammad Ali S/o Syed Naeem Hussain Shah as well as receiving the share of lunatic from Overseas Pakistan Foundation (OPF), Islamabad, being legacy of his father/deceased Muhammad Naeem Hussain Shah.
3. The petitioner has averred that the lunatic Muhammad Ali is his real-son and is suffering from mental retardation (Cerebral Palsy) with sever disability, due to which he is unable to look-after himself, his property and to manage his affairs, being

mentally unsound. The petitioner contended that her husband Syed Naeem Hussain Shah had died on 04/01/2022, who was serving in Riyadh, Saudi Arabia (K.S.A) and his Employer/Company has to remit his outstanding service benefits/dues i.e. SAR 16,448.32 in Account No. SA4082000001120101000022 of Embassy of Pakistan at Saudi Arabia for the remittance to Overseas Pakistan Foundation (OPF), Islamabad, wherefrom the share of lunatic is to be withdrawn. Similarly, the petitioner has also contended that her husband was also having landed property in Moza Thipra, wherein the lunatic Muhammad Ali is also entitled to his legal share. Finally, she prayed that the lunatic Muhammad Ali is unable to look-after himself, manage his affairs and the petitioner is already taking care of him and managing his affairs, being his real mother. Hence, filed the instant guardianship petition.

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Respondents No. 1/public at large was notified through proclamation in the newspaper, however none turned up and contested the petition, therefore, placed *ex-parte*. On 09/03/2023, respondents No. 2 & 3 (real brother & sister of lunatic Muhammad Ali) were impleaded as respondents vide order of this court, who appeared before the court, submitted cognovits and recorded their joint statement having no

objection on the appointment of petitioner as guardian of their real brother/lunatic Muhammad Ali.

5. Dr. Omar Murtaza Sheikh, District Psychiatrist, DHQ Hospital, Haripur examined as (PW-1), who produced the authority letter as (Ex. PW1/1) as well as report of Standing Medical Board (Ex. PW1/2), being member of the same, whereby, lunatic has been declared as "suffering from mental retardation (Cerebral Palsy), having sever disability. Mr. Zafeer Ahmed, Superintendent, Advocate General Office, KPK, Abbottabad examined as (PW-2), who verified the constitution of Standing Medical Board and the sanction accorded U/s 25 KP Mental Health Act, 2017 and got exhibited the relevant documents. The petitioner Mst. Uzma Bibi herself appeared as (PW-3) and reiterated her contentions as detailed above and got exhibited the succession certificate issued in her favour as (Ex. PW3/1) as well as copy of her CNIC as (Ex. PW3/2). Malik Allah Yar Awan, Patwari Halqa, examined as (PW-4), who stated that the relevant record is lying with the computer section and requested for requisitioning the same through Service Delivery Centre (SDC), Haripur. Mr. Faizan Romail, Incharge SDC, Haripur examined as (PW-5), who produced and got exhibited the relevant recorded as (Ex. PW5/1). Thereafter, evidence of the petitioner was closed.

6. Ex-parte arguments heard and available record perused.

7. Keeping in view the evidence produced by the petitioner and the probe made by this Court, it is held that Muhammad Ali S/o Muhammad Naeem Hussain Shah R/o Kahal Bala, Thipra, Tehsil & District Haripur, is suffering from Mental Retardation (Cerebral Palsy). The petitioner Mst. Uzma Bibi is real-mother of the lunatic and is already taking care of him, therefore, she is a suitable person to be appointed as Manager/Guardian of the person and property of mentally disordered Muhammad Ali and to receive the share of lunatic from Overseas Pakistan Foundation (OPF), Islamabad on behalf of lunatic as legacy of his deceased father. The appointment would be beneficial to the mentally unsound person and there appears no legal or factual obstacle in the way of such appointment.

8. Consequently, the petitioner Mst. Uzma Bibi D/o Syed Qurban Hussain Shah, is hereby, appointed as manager/guardian for the person and property of her mentally disordered son Muhammad Ali and to receive his share in the legacy of his father from Overseas Pakistan Foundation (OPF), Islamabad and is authorized to act in that capacity, subject to the provisions contained in Sections 30, 31, 32, 33 and 34 of the Khyber Pakhtunkhwa Mental Health Act, 2017, provided she furnishes personal bond in sum of Rs: 20,00,000/- (Twenty lac) to the satisfaction of this Court, to the effect that the above provisions

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of the Khyber Pakhtunkhwa Mental Health Act, 2017 shall be adhered to and complied with. Petition in hand stands accepted. File be consigned to Record Room, after necessary completion and compilation.

Announced:
26-06-2023



SHAHNAZ HAMEED KHATTAK
DJ/GUARDIAN JUDGE HARIPUR

CERTIFICATE

Certified that this judgment consists of Five (05) pages and each page has been signed by me, after making necessary correction therein.



SHAHNAZ HAMEED KHATTAK
DJ/GUARDIAN JUDGE HARIPUR