Order No. 07
16.10.2026

Petitioner alongwith counsel present. Inquiry report received. Publication received but no one appeared on behalf of public at large, hence placed and proceeded ex-parte. Mr. Sajjad Advocate filed an application for correction of father name of minors as Rafi Ullah Khan (late) which is inadvertently written as Rafi Ullah in the petition. As public at large has proceeded ex-parte therefore, application for correction is accepted. Moharrir of the court is directed to incorporate father name of minors as "Rafi Ullah Khan" with red ink. Ex-parte evidence recorded as PW-01 to PW-03 & closed. Ex-parte arguments also heard and record perused.

Petitioner namely Shah Muhammad S/O Bakhtiar Khan, R/O Qoum Otman Khel, Tappa Branka Khel, Tehsil Lower District Orakzai has filed the instant petition for grant of Guardianship Certificate regarding minor's namely Muhammad Sabir and Muhammad Asad. It has been alleged that the above named minors had appointed one Muhammad Khan S/O Aman Khan as a guardian and court issued guardian certificate in his favour. That minor namely Muhammad Asad is differently abled person, he required medical treatment and look-after. The one Shah Muhammad/applicant has already been taking care of him, and in future he is in position to continue his care, therefore, he may be appointed as guardian of minors. That the minors are still residing with petitioner and Muhammad Khan is willing not to proceed further as a guardian and want to discharge himself from guardianship of minors. Interest of

Civil Judge-VI
Orakzai (Lower)
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petitioner and minors are common and there is no conflict in their interest, therefore, he may be appointed as guardian of minors named above.

Respondents /public at large were summoned through publication in daily "AAJ" but no one appeared before the court to contest the instant application, hence, they were placed and proceeded against ex-parte.

Thereafter, petitioner produced three witnesses.

Petitioner himself appeared and deposed as PW-01. Copy of his CNIC is Ex.PW-1/1. He stated that minors are their uncles. Father of minors Rafi Ullah Khan has died and copy of his death certificate is Ex.PW-1/2. He further stated that minors are residing with him and he is responsible for their welfare, medical treatment and look-after. Muhammad Asad is a differently abled person and copy of his smart card is Ex.PW-1/3 and medical documents is Ex.PW-1/4. Muhammad Khan wants not to proceed as a guardian further and requested for discharge. Previously issued guardianship certificate is Ex.PW-1/5. He lastly requested for issuance of Guardianship Certificate in his favour and discharge of Muhammad Khan from guardianship.

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Muhammad Khan, appeared and deposed as PW-02. He stated that he was appointed as a guardian of minors and now he wants not to proceed as a guardian further. He further requested to appoint Shah Muhammad as a guardian of minors, has got no objection if Shah Muhammad is appointed as a guardian of minors. Copy of his CNIC is Ex.PW-2/1.

Sher Dil Khan, appeared and deposed as PW-03. He stated that after the death of Rafi Ullah Khan, his minor's children are residing with Shah Muhammad. He further stated that Shah Muhammad fulfills basic needs of

minors. He lastly requested for issuance of guardianship certificate in favour of Shah Muhammad and discharge of Muhammad Khan from guardianship. Copy of his CNIC is Ex.PW-3/1. For discharge of a guardian, section 40(I) of the Guardian and Ward Act is clear, which is reproduced bellows.

Section 40. Discharge of Guardian.....

1. If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

There is nothing on the case file to suggest that there is conflict of interest between petitioner and minors, hence the instant petition is allowed and the Guardianship Certificate, as prayed for, is granted in favour of petitioner Shah Muhammad subject to furnishing surety bond in the sum of Rs: 500,000/- (Five Lac Rupees) with two local and reliable sureties each in the like amount to the satisfaction of this court with a blank stamp paper while previously appointed guardian Muhammad Khan is hereby ***discharged*** from guardianship of these minors. The previously issued Guardian Certificate is revoked. The sureties to be produced by newly appointed Guardian must be men of means.

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

Announced:
16.10.2026

16/10/26.

(Noor Ul Haq)
Civil Judge/Guardian Judge-II,
Kalaya, Orakzai