



**In re JN (Subject) (Miscellaneous Case E255 of 2024)
[2024] KEHC 14869 (KLR) (Family) (28 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14869 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

MISCELLANEOUS CASE E255 OF 2024

H NAMISI, J

NOVEMBER 28, 2024

IN THE MATTER OF THE MENTAL HEALTH ACT, CAP 248 OF THE LAWS OF KENYA

AND

IN THE MATTER OF JN (SUBJECT)

BETWEEN

JN SUBJECT

AND

EN APPLICANT

RULING

1. Before the Court is Chamber Summons dated 5 November 2024 filed under section 26 (1) of the [Mental Health Act](#). The application seeks the following prayers:
 - i. (spent)
 - ii. That EM be appointed as legal guardian of J.N and be granted authority to make all necessary decisions regarding his personal and financial affairs, specifically for the purpose of accessing his bank account to pay medical expenses and manage his assets in his best interest;
 - iii. That an order be issued allowing the Applicant access to the Patient’s bank account No. 110XXXXXXXXX domiciled at KCB Kenya Ltd and authorise withdrawal of necessary funds for the purpose of settling the patient’s medical bills at the Nairobi Hospital pending the hearing and determination of this application;
 - iv. That any other orders this Honourable Court deems fit to grant in the interests of justice;



2. The Application is supported by the Affidavit sworn by the Applicant, who is a daughter to the subject. The same is premised on the grounds on the face of the Application. To the Application, the Applicant has attached a letter dated 25 October 2024 by Dr. Matu, Interventional Cardiologist, confirming that the Subject was admitted at the Nairobi Hospital from 17 October 2024 and was in the Intensive Care Unit. There is an estimate bill from the Nairobi Hospital dated 22 October 2024, indicating a sum of Kshs 1,184,291. The attached copy of Bank Statement from the Subject's account shows a closing balance of Kshs 1,076,107.91 as at 17 May 2024.
3. Additionally, the Applicant provided a letter from the Chief confirming that the Subject is a widower and has 7 children. The Applicant and her six siblings were present before the Court. The six siblings, who are all based abroad, consented to the appointment of their sister, the Applicant, as guardian of their father, the Subject herein.
4. The Court also had the opportunity to see the Subject, who was recuperating in bed. He is currently at a Nursing facility along Ngong Road, Nairobi. The attending Nurse appeared before the Court and confirmed that the Subject is unable to eat, speak or do anything on his own. The Nurse explained in great detail that the Subject had undergone several procedures and may be bedridden for a while to come.
5. Section 26 of the said *Act* states that:
 - 1) The court may make orders—
 - (a) for the management of the estate of any person suffering from mental disorder; and
 - (b) for the guardianship of any person suffering from mental disorder by any near relative or by any other suitable person.
 - (2) Where there is no known relative or other suitable person, the court may order that the Public Trustee be appointed manager of the estate and guardian of any such person.
 - (3) Whereupon inquiry it is found that the person to whom the inquiry relates is suffering from mental disorder to such an extent as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others or likely to act in a manner offensive to public decency, the court may make such orders as it may think fit for the management of the estate of such person, including proper provision for his maintenance and for the maintenance of such members of his family as are dependent upon him for maintenance, but need not, in such case, make any order as to the custody of the person suffering from mental disorder
6. I also considered all the material placed before me. It is apparent that due to the Subject's current medical condition, he is incapable of managing his own affairs and requires assistance. The Applicant confirmed the sum of Kshs 1.3 million as being the outstanding amount due to the Nairobi Hospital.
7. In the circumstances, the Court hereby appoints the Applicant as the subject's guardian and manager of his affairs. Further, the Applicant is hereby authorised to access the Subject's Bank account held at Kenya Commercial Bank, Account number 110XXXXXXXXXX for purposes of settling the monies due and owing to the Nairobi Hospital. The said sums shall be payable directly to Nairobi Hospital.
8. For the avoidance of doubt, such manager's general powers will not include the power of alienation, sale or transfer of any other assets held by the Subject but will include all the powers necessary for the management of such and other assets, and to plead and prosecute and/or defend any action brought by or against the subject in respect of any of the assets forming part of his estate.



DATED AND DELIVERED AT NAIROBI THIS 28 DAY OF NOVEMBER 2024

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Mr. Ochieng for the Applicant

