



**In re RWW (Subject) (Miscellaneous Application E201 of 2023)  
[2023] KEHC 25669 (KLR) (Family) (22 November 2023) (Judgment)**

Neutral citation: [2023] KEHC 25669 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
MISCELLANEOUS APPLICATION E201 OF 2023  
HK CHEMITEI, J  
NOVEMBER 22, 2023  
IN THE MATTER OF MENTAL HEALTH ACT CAP 248 LAWS OF KENYA  
AND  
IN THE MATTER OF RWW (SUBJECT)**

**IN THE MATTER OF**

**CWW ..... 1<sup>ST</sup> APPLICANT**

**PMW ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. In their petition dated 19<sup>th</sup> September 2023 the petitioners pray for the following reliefs:-
  - (a) That RWW be and is hereby adjudged to be a person suffering from a mental disorder under Section 26 of the [Mental Health Act](#).
  - (b) That this court be pleased to appoint Mr CWW and Mr PMW as guardians of the affairs of RWW in accordance with the [Mental Health Act](#) with powers to sign, access, withdraw, execute, and or carry out any act incidental to the affairs of the subject.
  - (c) This court be pleased to appoint Mr CWW and PMW as managers of the estate of the subject RWW with special permission pursuant to Section 27(1) of the [Mental Health Act](#) to charge, sell, gift, surrender, transfer, exchange or otherwise deal with any movable or immovable property comprised in the subjects estate.
  - (d) Costs be provided.
2. The petition is supported by the sworn affidavit of CWW dated 19<sup>th</sup> September 2023 together with the annexures thereto.



3. The affidavit evidence indicates that the subject who is the wife and mother to the applicants respectively has been diagnosed with somatic and psychiatric decease and is currently bedridden. The court was able to see her virtually on bed and being nursed by her caretaker and in the presence of the petitioners.
4. The documentary medical evidence and reports by Dr. J K Mutiso of Gilead Mental Health Consultants and Dr. Irungu Shango from Karen hospital speak as much. Section 26 and 28 (1) of the *Mental Health Act* and other related sections in my view have been satisfied by the applicants.
5. The sum total of that facts and the law herein satisfies this court that the petition is meritorious and the same is hereby allowed as follows.
  - (a) The subject herein RWW is adjudged a person suffering from mental disorder as provided by Section 26 of the *Mental Health Act*.
  - (b) CWW and PMW are hereby appointed guardians of the subject RWW.
  - (c) The two above are authorised to manage and execute the subject's estate including dealing with her movable and immovable estate and carry out any incidentals for the benefit of the subject.
  - (d) The petitioners shall however not charge or sale any of the subject's immovable property, if any, without seeking the approval from this court.
  - (e) costs shall be in the cause.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 22<sup>ND</sup> DAY OF NOVEMBER 2023.**

**H K CHEMITEI**

**JUDGE**

