



REPUBLIC OF KENYA



**In the Matter of an Application Guardianship by MWK (Civil Case E012 of 2021) [2022] KEHC 11984 (KLR) (20 June 2022) (Judgment)**

Neutral citation: [2022] KEHC 11984 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL CASE E012 OF 2021**

**MM KASANGO, J**

**JUNE 20, 2022**

**JUDGMENT**

1. M.W.K, filed this action seeking she be appointed guardian of M.K.K. (the subject)
2. M.W.K. (the wife) and the subject are husband and wife. The subject (the husband) as the medical reports before courts state has suffered mental disorder since early adulthood. The subject has all the while been on medication for schizophrenia. The doctor for Mathari National Teaching and Referral Hospital stated in that report that:-

“ He (the subject) is not to manage his own affairs and would benefit from guardianship. He is not able to follow court proceedings ...  
He requires life long treatment.”
3. There is no doubt that the subject is a person whom Section 26 of the [Mental Health Act](#) should apply. That Section provides:-
  - (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.”

4. From the medical report before court and the viva voce evidence adduced by MWK I make a finding that the subject is a person suffering from mental disorder. See Section 2 of the Act.
5. I grant the following orders:-
  - a. MKK is hereby declared a person suffering with mental disorder pursuant to Section 26 of the *Mental Health Act*.
  - b. MWK is hereby appointed a legal guardian of MKK.
  - c. MWK is hereby appointed manager of the Estate of MKK under provisions of Section 28 of the *Mental Health Act* to manage his estate which includes any of his immovable property, money, debts and legacies, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any property or giving a right to receive any money or goods.
  - d. The legal guardian shall represent MKK in court proceedings.
6. Orders accordingly.

**JUDGMENT DATED AND DELIVERED AT KIAMBU THIS 20TH DAY OF JUNE, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Mourice

For the Applicant: Mr. Kiratu

**COURT**

JUDGMENT delivered virtually.

**MARY KASANGO**

**JUDGE**

