



**RO & 3 others (Miscellaneous Application E045 of 2022)
[2022] KEHC 12623 (KLR) (Civ) (27 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 12623 (KLR)

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

CIVIL

MISCELLANEOUS APPLICATION E045 OF 2022

JK SERGON, J

JULY 27, 2022

**IN THE MATTER OF AN APPLICATION BY RO, AM, EM & RM TO BE APPOINTED
GUARDIANS OVER THE AFFAIRS AND MANAGERS OF THE ESTATE OF BM**

IN THE MATTER OF

**RO 1ST PETITIONER
AM 2ND PETITIONER
EM 3RD PETITIONER
RM 4TH PETITIONER**

JUDGMENT

- 1) The subject matter of this ruling is the petition dated January 25, 2022 in which the petitioners seek for the following orders:
 - i. That BM is hereby adjudged to be a person suffering from a mental disorder under section 26 of the [Mental Health Act](#), Cap 248 of the Laws of Kenya.
 - ii. That this honourable court be pleased to appoint RO, AM, EM and RM as the joint legal guardians of the subject in accordance with the [Mental Health Act](#).
 - iii. That this honourable court be pleased to appoint RO, AM, EM and RM as the joint legal managers of the estate of the subject with powers to take charge and manage BM's properties, execute court documents as well as other relevant documents and carry out other incidental and general functions.
 - iv. That this honourable court be pleased to appoint RO, AM, EM and RM as signatories to the bank account being, Co-operative Bank account number XXXXX, with an order for any two (2) signatories to sign and authorize payments.



- 2) The petitioners filed an affidavit they jointly swore in support of the petition. This court also granted leave to the petitioners to file a supplementary affidavit with annexures in respect of the Subject's medical report
- 3) I have considered the grounds stated on the face of the petition plus the facts deponed in the affidavits filed in support.
- 4) It is the averment of the petitioners that BM the subject suffers from a mental condition which renders him unable to manage his affairs therefore there is need to appoint the petitioners as managers of his estate under section 26 of the *Mental Health Act*, Cap 248 Laws of Kenya.
- 5) It is specifically stated that the subject suffers from severe schizopnemia. It is also stated that the subject is not married and without children of his own and that he resides with one of the petitioners to ensure his safety, attendant care and upkeep.
- 6) Having considered the material placed before this court, I am satisfied that this is a case fit for the court to issue the orders sought for under section 26 of the *Mental Health Act*. It is apparent that the subject requires the attention and management by the petitioners who are close family members being brothers and a sister.
- 7) In the end, I find the petition dated January 25, 2022 to be meritorious. The petition is allowed thus giving rise to issuance of the following orders:
 - i. That BM is hereby adjudged to be a person suffering from a mental disorder under section 26 of the *Mental Health Act*, Cap 248 of the Laws of Kenya.
 - ii. RO, AM, EM and RM are appointed as the joint legal guardians of the subject in accordance with the *Mental Health Act*.
 - iii. RO, AM, EM and RM are appointed as the joint legal managers of the estate of the subject with powers to take charge and manage BM's properties, execute court documents as well as other relevant documents and carry out other incidental and general functions.
 - iv. RO, AM, EM and RM are appointed as signatories to the bank account being, Co-operative Bank account number XXXXX, with an order for any two (2) signatories to sign and authorize payments.

****DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 27TH DAY OF JULY, 2022.**

J. K. SERGON

JUDGE

In the presence of:

..... for the petitioners

..... for the Respondent

