

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

MISC. CAUSE NO. E021 OF 2020

IN THE MATTER OF RWM

AND

IN THE MATTER OF SECTIONS 26, 27, 28, AND 29 OF THE MENTAL HEALTH ACT CHAPTER 248 OF THE LAWS OF KENYA

RWM.....SUBJECT

AND

JNK.....PETITIONER

RULING

1. The petitioner JNK. is the husband of the subject RWM and the two are co-directors in [particulars withheld] Limited. In the petition filed before this court, the petitioner stated that the subject suffers from bipolar as a result of which she is hostile both to him and to the other members of the family. Further, that she is, on account of her condition, not able to help run and manage the limited liability company or successfully attend the directors' meetings. He stated that she has been variously admitted into hospital for the condition, and he has taken her abroad for medical attention. The efforts have not changed her condition.

2. The petitioner annexed a medical report dated 27th July 2020 by Dr. Marx M. O. Okonji, MB. CHB (NBI) FRC Psych (UK) DPM (London) which stated that the patient was admitted at Avenue Hospital from 17th August 2019 to 21st August 2019 and from 8th September 2019 to 20th September 2019. The doctor found that she suffered from bipolar 1 disorder which presented both in depressive and manic phases. He found that during her manic phases, she had the tendency to excessively spend beyond her means and would not be able to function as a director.

3. The petitioner asked the court to adjudge the subject to be a person suffering from mental disorder, and to appoint him as the guardian and manager of her estate and affairs. He further asked that, under **section 27(1)(a)** of the **Mental Health Act (Cap. 248)**, he be empowered to sign any necessary documents on her behalf in relation to [particulars withheld] Limited. Lastly, that, under the same provision, he be allowed to mortgage, charge, transfer, sell, gift, surrender or exchange any immovable property of her estate.

4. I allow the application by determining that the subject has a mental disorder and therefore unable and incapable of managing her affairs. I appoint the petitioner as guardian and manager of her estate and affairs. Further, I authorise the petitioner to sign any documents on her behalf in regard to the management of the affairs of [particulars withheld] Limited.

5. If any special permission shall be required to mortgage, charge, sell, gift, surrender or exchange any specified part of her estate, the necessary application shall be made to the court.

DATED and DELIVERED electronically at NAIROBI this 22ND OCTOBER 2020

A.O. MUCHELULE

JUDGE