



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY AND PROBATE DIVISION**

**MISC. APPLICATION NO. 63 OF 2018**

**IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF**

**J. N. M. (A PERSON OF UNSOUND MIND)**

**G. K.....APPLICANT**

**JUDGMENT**

**1.** Before court is a petition dated 22<sup>nd</sup> May, 2018 by one G. K. of P.O. Box 136 Gilgil in Kenya. The petition is brought pursuant to the **Mental Health (Chapter 248)** of the Laws of Kenya. The Petitioner has sought for the following prayers:

- a) A declaration that J. N. M. is a person suffering from a mental disorder as defined in the Mental Health Act.
- b) The Petitioner G. K. be declared as fit to act as the legal guardian of J. N. M.
- c) That this honourable court be pleased to appoint G. K. of post office 136 Gilgil as legal guardian to J. N. M.
- d) Costs be provided.

**2.** The petition was supported by an affidavit of the intended guardian dated the same day as the petition. The affidavit states that the subject suffers from mental disorder, is not expected to recover as the situation has got worse with time and cannot be able to take responsibility for herself as she lacks the competence. A medical report from Gilgil sub-County hospital states that the Subject has been under medication due to the said illness since 2009 and though her condition is controlled due to medication, the Subject is not fully independent and capable of making decisions.

**3.** The Applicant is the only sibling of the Subject. Both their parents are deceased. Further the Applicant is the only one who is capable of taking care of the subject which he has been doing over time. The Applicant is married to one A. W. M. who has helped the Applicant take care of his sister since they got married. The Applicant's wife on her part informed the court when summoned that she is willing to help her husband take care of his sister.

**4.** Other relatives of the Subject appeared in court and gave consent to the Applicant being appointed as the legal guardian of the Subject.

**5.** **Section 26** of the **Mental Health Act (Cap 248)** of the Laws of Kenya empowers the court to order for custody, management and guardianship of a person with a mental disorder.

**6.** There is ample evidence that the Subject matter herein J. N. M. suffers from a mental disorder, and the Applicant G. K. being the only sibling of the Subject matter and the closest family available he is hereby appointed as the guardian of the Subject and the manager of the Subject's property.

Costs in the cause.

**SIGNED DATED and DELIVERED** in open court this **26<sup>th</sup>** day of **September, 2018**.

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**ALI-ARONI**

**JUDGE**