



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 1511 OF 1998**

**IN THE MATTER OF THE ESTATE OF H N M (DECEASED)**

**RULING**

1. The application that I am supposed to be determining is dated 28<sup>th</sup> April 2017. It invites me to make an enquiry into the mental capacity of F N N, who is said to have filed a protest to the summons for confirmation of grant dated 8<sup>th</sup> March 2016, hereinafter named as the 2<sup>nd</sup> protestor/respondent.

2. It is brought at the instance of the administrators of the estate of the deceased. The administrators are siblings of the 2<sup>nd</sup> protestor/respondent. They allege that he is of unsound mind. He is alleged to have been admitted several times at Chiromo Lane Hospital, Avenue Hospital and Mathari Hospital. They ask for an order directed at the three health institutions to produce his mental/medical records. They urge that justice would be done if that is done.

3. The reply to the application is vide an affidavit sworn by Dr. FR Owiti on 29<sup>th</sup> May 2017. He is the psychiatrist who has been attending to the 2<sup>nd</sup> protestor/respondent since 2011. He has attached medical report relating to the said 2<sup>nd</sup> protestor/respondent. The history provided is that he was first admitted in 2011 at Chiromo Lane Hospital complaining of over talkativeness, and being loud and aggressive. He was diagnosed with Bipolar 1 Mood Disorder and Diabetes Mellitus. It is reported that there was no evidence of lack of soundness of mind. The opinion of the doctor is that F N N was mentally stable, and the disorder he suffered from did not render him to be of unsound mind.

4. From the record before me, the applicants indicate that the 2<sup>nd</sup> protestor/respondent had been admitted at three institutions. The medical report provided is from only one of the institutions. To do justice in the matter, the court ought to have access to records from the other institutions.

5. I hereby therefore order the administrators of Avenue Hospital and Mathari Hospital do provide medical records/reports relating to the treatment and management of F N N during the time he was admitted or hospitalized in those institutions. The records/reports to be availed within thirty (30) days.

**DATED, SIGNED and DELIVERED at NAIROBI this 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**W. MUSYOKA**

**JUDGE**